

Page 1187

1 IN THE MATTER OF AN ARBITRATION
2 BETWEEN
3 LANCE ARMSTRONG and §
4 TAILWIND SPORTS, INC. §
5 §
6 Claimants, § ARBITRATION BEFORE THE
7 § HONORABLE RICHARD
8 VS. § FAULKNER, RICHARD
9 § CHERNICK AND TED LYON
10 §
11 SCA PROMOTIONS, INC. and §
12 HAMMAN INSURANCE SERVICES, §
13 INC. §
14 §
15 Respondents. §
16
17
18
19 ARBITRATION
20 TRANSCRIPT OF PROCEEDINGS
21 JANUARY 12, 2006
22 VOLUME 7
23 CONFIDENTIAL
24
25

On 12th day of January, 2006, at 9:04 a.m., the arbitration in the above proceedings came on before Arbitrators Richard Faulkner, Richard Chernick and Ted Lyon, at the offices of Richard Faulkner, 12655 North Central Expressway, Suite 810, in the City of Dallas, County of Dallas, State of Texas.

Page 1188

1 A P P E A R A N C E S
2 FOR THE CLAIMANTS:
3 Mr. Tim Herman
4 Mr. Sean Breen
5 HERMAN HOWRY & BREEN
6 1900 Pearl Street
7 Austin, Texas 78705-5408
8
9 Ms. Lisa Blue
10 BARON & BUDD
11 1100 Centrum Building
12 3102 Oak Lawn Avenue
13 Dallas, Texas 75219
14
15 FOR THE RESPONDENTS:
16 Mr. Jeffrey M. Tillotson
17 Mr. Cody L. Towns
18 LYNN TILLOTSON & PINKER, L.L.P.
19 Suite 1400
20 750 North St. Paul Street
21 Dallas, Texas 75201
22
23 ALSO PRESENT:
24 Ms. Mariela Evora
25 Mr. Chris Compton
 Mr. John Bandy
 Mr. Robert Hamman
 Mr. Michael Ashenden
 Ms. Lynn G. Bone
 Mr. Russell E. Pryor
 Ms. Marianne Ross
 Dr. Ed Coyle
 Mr. Bill Stapleton
 Mr. Lawrence Temple

Page 1189

1 I N D E X
2 WITNESS PAGE
3 JAY T. KEARNEY
4 DIRECT EXAMINATION BY MR. BREEN 1208
5 CROSS EXAMINATION BY MR. TOWNS 1294
6
7 LANCE ARMSTRONG
8 DIRECT EXAMINATION BY MR. HERMAN 1327
9 CROSS EXAMINATION BY MR. TILLOTSON 1416
10 RE-DIRECT EXAMINATION BY MR. HERMAN 1484
11
12 CLAIMANTS' EXHIBITS
13 117 - Resume of Jay T. Kearney 1207
14 118 - Table of Calculations 1207
15 119 - PowerPoint Presentation - Kearney 1207
16 120 - Lance Armstrong's Statement 1385
17 121 - e-mail form Allison Anderson to Lance Armstrong 1489
18
19 RESPONDENTS' EXHIBITS
20 24 - Transcript of taperecorded 1490
21 conversation between Frankie
22 Andreu, Stapleton and Knaggs
23 25 - Questions about a Champion 1449
24 30 - 6-28-04 e-mail from Armstrong 1474
25 to Allison Anderson
26
27 33 - Coyle article - Improved muscular 1295
28 efficiency displayed as Tour de
29 France champion matures
30
31 39 - The Paceline web site Press Releases 1460
32
33 44 - 1999 Test Results and Control Forms 1476
34
35 54 - Article - Rominger closes the file 1412
36
37 55 - 11/22/94 Cycling Database 1295
38
39 56 - Scientific American article 1220

Page 1190

1 P R O C E E D I N G S
2 ARBITRATOR FAULKNER: Let's go on the
3 record.
4 MR. HERMAN: With respect to the Motions
5 in Limine, the -- for example, Mr. Walsh, as I
6 understand it, the Respondents intend to call him
7 relatively early in their case. We have no resolution
8 of the documents -- any of the documents that relate
9 to his testimony and so I would simply say that either
10 we need to have the documents to cross examine him or
11 he shouldn't be allowed to testify, but that
12 reiterates the -- you know, the issue that was joined
13 on Monday when we got together. So the inquiry, I
14 guess, is are we going to get a resolution of that
15 issue before they call him and what do you need from
16 us, if anything, to move that ball along? I guess
17 that's the first issue.
18 ARBITRATOR FAULKNER: We have already
19 been discussing that amongst ourselves and so you will
20 get a resolution before he would be called
21 potentially. And so, you know, we will let y'all know
22 what that is later today. We will talk further
23 because we think we may have a possible solution. We
24 were hoping to see if you guys worked one out amongst
25 yourselves first. That apparently not being the case,

Page 1191

1 then we will go ahead and deal with it probably later
 2 today.
 3 MR. HERMAN: I would say that -- you
 4 know, and we have talked about it, but I don't think
 5 that Mr. Tillotson -- and he can correct me if I'm
 6 wrong, I don't think he really has the authority to
 7 consent to our use of the documents absent Mr. Walsh's
 8 consent, so...
 9 ARBITRATOR LYON: Let me ask you a
 10 question, with the chairman's permission.
 11 ARBITRATOR FAULKNER: Ask away.
 12 ARBITRATOR LYON: Do you have the
 13 documents that you want?
 14 MR. HERMAN: Yes, some of them. I mean,
 15 I don't know how many, but we do have some, yeah.
 16 ARBITRATOR LYON: And the documents you
 17 want to cross-examine him on are the documents that
 18 you have?
 19 MR. HERMAN: We do have them, yeah. And
 20 I don't -- since I don't know if there are any others,
 21 certainly those are the documents that we would use in
 22 our cross examination.
 23 ARBITRATOR LYON: And during the
 24 deposition he just refused to answer any questions
 25 about those documents?

Page 1192

1 MR. HERMAN: Yes. He -- I gave him one
 2 document. He refused to answer about it and rather
 3 than -- I honored his request. I simply said and I
 4 think we provided those pages to you, but we can if we
 5 haven't. If I were to ask you questions about any
 6 other document, that was produced in the English case,
 7 would you refuse to answer and he said yes.
 8 ARBITRATOR CHERNICK: My understanding
 9 from Mr. Tillotson was that the basis for that was he
 10 was unsure about the confidentiality of those
 11 documents and your right to use them. Have you had
 12 further conversations with Mr. Walsh about his current
 13 state of mind as to the use of those documents in this
 14 proceeding?
 15 MR. TILLOTSON: Yes, I have, Mr.
 16 Chernick. According to his British lawyers he
 17 continues to decline to consent -- continues to refuse
 18 to consent to the use of those documents, whatever has
 19 been produced in the British case for use in this
 20 case. My understanding is that Mr. Armstrong's
 21 lawyers in Britain have filed a motion to be heard
 22 with the British court asking the British court to
 23 allow them to be used in those proceedings. I don't
 24 know when that's going to be heard or what the issue
 25 is with respect to that, but that is my understanding

Page 1193

1 that Mr. Armstrong has sought or is seeking relief on
 2 a case-by-case basis for the British court to override
 3 whatever British legal rule is that prohibits the
 4 sharing of those documents.
 5 ARBITRATOR CHERNICK: So the issue from
 6 our perspective would be assuming that's not resolved
 7 in the British courts before he shows up here would be
 8 a witness shows up, he refuses to answer questions
 9 about documents that you have in your possession and
 10 our issue is does that affect his ability to testify
 11 in this proceeding or what weight we give to his
 12 testimony based upon whatever we understand to be the
 13 status of his objection to the use of those documents;
 14 that would be the issue?
 15 MR. HERMAN: Well, that would -- that --
 16 that's partially the issue, but the issue is under the
 17 act we are entitled to cross-examine the witness and
 18 under the cases that means meaningful cross
 19 examination and we say that we would not be able to do
 20 that here. But a further issue is the subpoena that
 21 was actually issued by this tribunal. But they seek
 22 the same documents. And that's where the foul-up came
 23 on December the 9th, we said please let us know if --
 24 if he can -- if he consents or doesn't consent to us
 25 using the British documents because they're the same

Page 1194

1 ones that the panel has subpoenaed. And so when he
 2 showed up in New York with no documents and indicated
 3 that he had made no effort to find any documents, I
 4 assumed that since he was voluntarily subjecting
 5 himself to you all's jurisdiction that he honored the
 6 subpoena.
 7 ARBITRATOR CHERNICK: So that's just an
 8 additional argument why you ought to be entitled to
 9 use the documents and/or exclude his testimony or
 10 portions of his testimony because he's refusing to
 11 respond to cross examination on those documents?
 12 MR. HERMAN: Correct. As distinct from
 13 whatever British proceeding is going on.
 14 ARBITRATOR LYON: He's coming
 15 voluntarily?
 16 MR. TILLOTSON: He is.
 17 ARBITRATOR FAULKNER: Will he actually be
 18 physically here?
 19 MR. TILLOTSON: Yes.
 20 ARBITRATOR LYON: Is he going to be paid
 21 by y'all?
 22 MR. TILLOTSON: No. We have paid his
 23 travel expenses, but not for his time or appearance,
 24 no.
 25 MR. HERMAN: It also, you know, affects

Page 1195

1 other witnesses whose statements Mr. -- and notes and
 2 so forth and e-mails Mr. Walsh has and have been
 3 produced. I think that's an adequate explanation
 4 ARBITRATOR FAULKNER: Let's get a
 5 response from Mr. Tillotson.
 6 MR. TILLOTSON: If I might respond to
 7 that. I think they have the documents they are going
 8 to use, so I'm not sure if there's anything else he
 9 would physically bring, is my understanding. But I
 10 also think we are caught up in the issue, too, because
 11 I can't force Mr. Walsh to consent to produce
 12 documents in the related litigation which I'm not in
 13 control of, which they brought against him. We are
 14 considering what kind of testimony we might offer from
 15 Mr. Walsh as a way of streamlining what he would say
 16 and what might be meaningful to this panel for
 17 purposes of our dispute. We don't want to try a libel
 18 or defamation case against Mr. Walsh's book in this
 19 proceeding. We want to put on evidence as it relates
 20 to our contract.
 21 So one possible resolution for us is the
 22 testimony we offer may not require them to do an
 23 exhaustive attack on portions of the book that we are
 24 not relying on or haven't offered into evidence, but
 25 moreover, the allegations in evidence we'll hear in

Page 1196

1 front of this panel we have attempted to corroborate
 2 outside of Mr. Walsh's book and have taken the
 3 position that the book alone isn't enough for us to
 4 have denied the claim.
 5 So to me that's a -- there's a possible
 6 resolution that Mr. Walsh be allowed to testify. We
 7 know that going into areas where there may be
 8 documents related to his notes or whatever in that
 9 book that he refuses to testify about, there may be
 10 areas that he's not able to testify about in this case
 11 because of his refusing to produce documents.
 12 But there are certain facts that we think
 13 that he can testify to that really don't involve
 14 obtaining notes or things from his book, mainly
 15 corroborating conversations with certain witnesses
 16 whose testimony we are also going to present and the
 17 mere fact of the publication of the book, and also we
 18 would like him to explain at least contradict
 19 Mr. Herman's arguments regarding that the book must be
 20 meaningless and it must be untrue since it hasn't been
 21 published in the United States.
 22 So we are not bringing him here to have
 23 him recite chapter and verse of his book and then hide
 24 behind some British lawsuit saying you don't get to
 25 use these notes to cross-examine him on the various

Page 1197

1 subjects.
 2 ARBITRATOR FAULKNER: Have you all
 3 discussed amongst yourselves exactly what areas of
 4 testimony you anticipate from Mr. Walsh so that you
 5 all can ascertain if you do have adequate information,
 6 in your view, to cross-examine him?
 7 MR. HERMAN: We haven't had that
 8 discussion, but I'm certainly prepared to --
 9 ARBITRATOR FAULKNER: I would suggest
 10 that y'all have that discussion and that may obviate
 11 some of this.
 12 MR. HERMAN: I know that Mr. Walsh in his
 13 deposition indicated that basically all -- everything
 14 in the book that related to continental Europe he had
 15 nothing to do with, that was his French author. So, I
 16 mean, I think those issues are out of play, but those
 17 wouldn't be in his notes anyway. But --
 18 ARBITRATOR FAULKNER: Why don't you all
 19 have a conversation, reduce to writing for us what
 20 y'all agree on so that we can deal with whatever, if
 21 anything, remains. We would want you to do the same
 22 thing with regard to Ms. O'Reilly and then that way,
 23 you know, hopefully we will have a very narrow set of
 24 issues for us to rule on.
 25 MR. HERMAN: Okay. We will do that

Page 1198

1 before the end of the day if you guys are -- you --
 2 the panel's going to --
 3 ARBITRATOR CHERNICK: The honorable
 4 tribunal.
 5 MR. HERMAN: The honorable tribunal is
 6 requesting to get together and discuss that.
 7 ARBITRATOR CHERNICK: You guys is just
 8 fine.
 9 ARBITRATOR FAULKNER: It may be a
 10 promotion from politicians with, quote, honorable,
 11 unquote. Yeah, if y'all will chat, that would be
 12 helpful and then let us know the results of your
 13 discussions, and then, if necessary, we will rule.
 14 But we would like to let y'all take a shot at working
 15 it out amongst yourselves.
 16 MS. BLUE: I would ask that you would
 17 consider this argument and it plays into what Judge
 18 Caneles has also considered. And our position is that
 19 it is patently unfair that Walsh or O'Reilly be able
 20 to testify in this proceeding for this reason. One
 21 thing that is very serious about this proceeding is
 22 their confidentiality agreements among the parties
 23 that we can't go out and talk to the press. We --
 24 that's very strict in this proceeding. And I hope
 25 that y'all will consider that once Walsh and O'Reilly

Page 1199

1 leave and get on a plane you no longer have
2 jurisdiction of them.
3 ARBITRATOR FAULKNER: We are acutely
4 aware of our jurisdiction and any limits. We're also
5 aware of some of the comments that were made about
6 what, if any, opportunities SCA may have to go to any
7 regulatory authorities and that's why we have asked
8 y'all several times now to reduce that to writing and
9 give it to us so that we have that before us before we
10 rule.
11 Y'all, we're not afraid to rule, but we'd
12 like to give you the best opportunity to work things
13 out amongst yourselves if you can.
14 MR. HERMAN: The reasons I brought up
15 this morning, Your Honors, I felt like I've been
16 remiss in not bringing it up before now. We certainly
17 don't -- you know, we don't have any problem with it.
18 We have just been so busy working on other things.
19 ARBITRATOR FAULKNER: Oh, we understand.
20 That's why the gentle reminders. If we want to order
21 something, we will. Have no doubt about that. But,
22 you know, we encourage y'all to work it out amongst
23 yourselves. Because if we rule some or all of you may
24 be unhappy. So see if you can work it out and then we
25 will proceed from there.

Page 1200

1 Mr. Anderson, what's the status on him,
2 because that's the other one we asked y'all to come up
3 with some agreement --
4 MR. HERMAN: We are not going to -- we're
5 not going to object to Mr. Anderson testifying, coming
6 up here and testifying as if he is, you know, subject
7 to a valid subpoena or -- you know, or whatever we
8 need to do to make sure that there's no impediment to
9 his testimony. We are not -- we are not going to
10 object to it in anyway.
11 ARBITRATOR FAULKNER: Okay. Not
12 objecting to it and the potential of any downstream
13 consequences for him if he does testify under a valid
14 subpoena are a little bit different.
15 ARBITRATOR CHERNICK: He just needs
16 something, I think, in writing which says that the
17 parties agree that his appearance here would be
18 pursuant to a valid subpoena, period. And then after
19 that everything plays out.
20 MR. HERMAN: That's perfectly acceptable.
21 And I'm sorry, I thought I made that clear on Monday,
22 but you need that in writing as well.
23 ARBITRATOR FAULKNER: We would like that
24 in writing, yeah, cause -- sure. Because let's face
25 it with what's at stake in this case some or all of

Page 1201

1 you may not be happy with the ultimate award.
2 MR. HERMAN: Sure.
3 ARBITRATOR FAULKNER: We are conscious of
4 that and we want to have everything in our record so
5 that it's clear what we are working from.
6 MR. HERMAN: Absolutely. And we will get
7 that to you before the end of the day.
8 I need to raise one other issue, though,
9 one other evidentiary issue, if I might. We took
10 Mr. Compton's deposition and Mr. -- and Dr. Ashenden's
11 deposition the same day, I can't remember the 22nd or
12 the 23rd of December and they were recessed, but we
13 never reconvened them. I'm not complaining about
14 that. But apparently Dr. Ashenden intends to testify
15 regarding a research project that was conducted in
16 August of 2005 on some frozen urine samples from 1999.
17 If -- that -- that research project has
18 been declared by every governing body, including WADA
19 and USADA and so forth that it can -- those -- because
20 the protocols were not followed because there's no A
21 sample, no chain of custody, la-da-da-da-da, that none
22 of those samples can be utilized -- none of those
23 research projects can be used as a sanction for
24 anything.
25 So I guess the question is, are you -- if

Page 1202

1 the panel intends to let Dr. Ashenden testify about
2 those, that event which occurred nine -- at least nine
3 months after they denied the claim, we need to bring
4 a -- an expert that is a -- counters Dr. Ashenden or
5 at least is of the same discipline to address that
6 issue and we will certainly make him available for,
7 you know, deposition if we need to in the evening or
8 over the weekend.
9 But we submit that that is totally out of
10 line, it has nothing to do with the 2001, 2004 and it
11 doesn't have anything to do with, you know, what our
12 position is anyway. It wouldn't have anything to do
13 with it anyway. But under these circumstances, where
14 it could not be used by any governing body for any
15 sanction, for any rules violation, it's -- it's just
16 wasting the panel's time.
17 And so if that -- if that's going to
18 be -- if Ashenden -- Dr. Ashenden's testimony on that
19 issue is going to be allowed, we just -- we are going
20 to need the opportunity to name our own doctor.
21 That's that issue.
22 ARBITRATOR FAULKNER: Any response, Mr.
23 Tillotson?
24 MR. TILLOTSON: Yes, he's wrong. This is
25 the story that was reported in l'Equipe. These are

Page 1203

1 those test results that we are talking about, and he's
 2 wrong that that -- that this evidence could never be
 3 considered by any tribunal in connection with sanction
 4 of Mr. Armstrong. That's just wrong, and the facts,
 5 Mr. Armstrong's testimony in this deposition was that
 6 this is the subject of an ongoing investigation by
 7 both UCI and WADA. I don't know about USADA, which is
 8 the U.S. organization. This is the subject matter of
 9 expert testimony that was disclosed by our expert in
 10 connection with his designation that he was going to
 11 testify about the test results that were reported by
 12 l'Equipe, explain them.

13 I put in opening that they cross examined
 14 or deposed my expert on this issue. He was tendered
 15 for further deposition on the Friday before the
 16 hearing, they declined to ask him any further
 17 questions and they've known that we were going to use
 18 this as a centerpiece of evidence to this panel, this
 19 expert since the article came out. And I've asked all
 20 this witnesses in the depositions about this
 21 particular piece of evidence and we have already
 22 started talking about it.

23 So they're certainly entitled to make any
 24 evidentiary objections to anything my expert says when
 25 he says it. But the notion that somehow we need to

Page 1204

1 designate an expert now because this is new
 2 information, that's just not right.

3 ARBITRATOR CHERNICK: What understanding
 4 do the parties have about the offering of rebuttal
 5 expert testimony to testimony that's offered in this
 6 proceeding?

7 MR. TILLOTSON: I don't think we really
 8 did have an understanding. I don't remember what the
 9 scheduling order said.

10 ARBITRATOR CHERNICK: Wouldn't either --
 11 wouldn't either side have the right to offer
 12 legitimate rebuttal testimony?

13 MR. TILLOTSON: Absolutely.

14 ARBITRATOR CHERNICK: And I suppose that
 15 the parties should be obligated to disclose promptly
 16 what that rebuttal testimony is going to be, at least
 17 who the witnesses are going to be?

18 MR. TILLOTSON: Yes. I wouldn't have
 19 objected if he had told me, you know, in December or
 20 after -- in fact, I think I designated my folks first
 21 and he designated after me, even though I was
 22 responding to him. I think the agreement was that I
 23 would designate first and he would designate his
 24 people after me. So I think he had that opportunity
 25 to designate any rebuttal, but in the interest of

Page 1205

1 justice I don't have any problem with anyone
 2 designating any rebuttal expert on any issue that's
 3 brought up so long as both sides have adequate time to
 4 prepare.

5 ARBITRATOR CHERNICK: So if -- if Mr.
 6 Herman is prepared to do that promptly, you would be
 7 prepared to consider that and to consider what further
 8 testimony you might need in response to that?

9 MR. TILLOTSON: Of course.

10 MR. HERMAN: I've got the -- I've got the
 11 gentleman's CV here, Your Honor, so that's --

12 ARBITRATOR FAULKNER: I kind of expected
 13 you might have one. Would you show it to
 14 Mr. Tillotson?

15 MR. HERMAN: I can -- I don't want to
 16 take the panel's time now, but Mr. Tillotson and I
 17 will speak this morning, I will provide this to him
 18 and -- and then we'll get back to the panel and see if
 19 we have an agreement or not.

20 ARBITRATOR FAULKNER: Okay.

21 ARBITRATOR LYON: I have a question.

22 ARBITRATOR FAULKNER: Senator.

23 MR. TILLOTSON: That may be the answer to
 24 it right there.

25 ARBITRATOR LYON: Are those tests CLEA

Page 1206

1 approved? Do you know what I'm talking about?

2 MR. TILLOTSON: Not --

3 ARBITRATOR LYON: There's a clinical
 4 laboratory approved in the United States or FDA
 5 approved?

6 MR. TILLOTSON: I don't think so. I
 7 mean, they were done by -- they were done by the
 8 same -- if you recall the e-mail from UCI that was
 9 presented into evidence.

10 ARBITRATOR FAULKNER: That French
 11 laboratory?

12 MR. TILLOTSON: The one that was WADA
 13 approved or accredited, that was the same laboratory.
 14 And there's obviously a dispute between the parties
 15 over what the test results mean. They -- if you
 16 recall the test results they say it was part of a
 17 research project and how much credibility our witness
 18 should be given.

19 Mr. Armstrong and the Claimants contest
 20 the chain of custody and all of those things. Since
 21 we are offering it, we retained an expert to put on an
 22 evidence to rebut some of those charges.

23 ARBITRATOR FAULKNER: So you gentlemen
 24 are going to speak, you'll let us know of any
 25 agreement and if you just sent or gave to

Page 1207

1 Mr. Tillotson the CV of your proposed rebuttal expert?
 2 Y'all let us know later today what you have agreed to
 3 in that regard so that we then know what, if anything
 4 else, we need to do.
 5 Any other preliminary matters?
 6 MR. HERMAN: We don't have any, Your
 7 Honor.
 8 MR. TILLOTSON: No, Your Honor.
 9 ARBITRATOR FAULKNER: Thank you. Okay,
 10 Mr. Herman, please proceed.
 11 MR. BREEN: Your Honor, we call -- excuse
 12 me, Mr. Chairman, we call Dr. Kearney, Jay T. Kearney
 13 to the stand.
 14 MR. HERMAN: Mr. Breen will be examining
 15 Dr. Kearney.
 16 ARBITRATOR CHERNICK: Off the record for
 17 just a moment.
 18 (Discussion off the record)
 19 ARBITRATOR CHERNICK: Back on the record.
 20 We have now -- the panel now has Exhibit 117, which
 21 is the resume of Jay T. Kearney, K-E-A-R-N-E-Y. 118
 22 is on the first page of series of calculations or a
 23 table of calculations, and 119 is the PowerPoint
 24 presentation of Dr. Kearney.
 25 MR. BREEN: May I proceed, Mr. Chairman?

Page 1208

1 ARBITRATOR FAULKNER: Yes, you may.
 2 I need to swear him first.
 3 JAY T. KEARNEY,
 4 having been first duly sworn, testified as follows:
 5 DIRECT EXAMINATION
 6 BY MR. BREEN:
 7 Q. Would you introduce yourself for the panel
 8 please, Dr. Kearney?
 9 A. Jay T. Kearney.
 10 Q. And Dr. Kearney, where do you live?
 11 A. Colorado Springs, Colorado.
 12 Q. And what do you do there?
 13 A. I'm currently vice president of Health and
 14 Sports Science Services at Carmichael Training
 15 Systems.
 16 Q. What is Carmichael Training Systems?
 17 A. Carmichael Training Systems is the world
 18 leader in the delivery of remote based coaching to
 19 individuals ranging from recreational all the way to
 20 elite level performers to help them achieve their
 21 performance goals.
 22 Q. So if a person wants to, either for
 23 recreational or competitive reasons, hire themselves a
 24 coach or any kind of program from even beginning to a
 25 little bit more advanced, that's something they can do

Page 1209

1 through Carmichael Training Systems?
 2 A. Yes, sir. That's our core business.
 3 Q. Who is Chris Carmichael?
 4 A. Chris Carmichael is the founder and CEO of
 5 Carmichael Training Systems. He -- his background
 6 was -- he originally was a racer, amateur and
 7 professional, went on to become a coach for the United
 8 States Cycling Federation, rose through the coaching
 9 ranks there and was the director of the sports science
 10 and technology -- excuse me, was the director of the
 11 coaching program for U.S. -- USA Cycling until the --
 12 I don't know, a time period something like after 1996,
 13 left there and was involved in continuing coaching
 14 with a number of athletes, including Lance Armstrong,
 15 realized that most of the methodology he was using
 16 working with these high level athletes was remote
 17 based, and has developed a business based around that
 18 methodology and technology over the last five years.
 19 Q. So Mr. Carmichael was Mr. Armstrong's coach
 20 for some period of time?
 21 A. Yes, I believe that they have worked in a
 22 coach/athlete relationship since about 1991 or '92.
 23 Q. And do you work with him now?
 24 A. Yes, I do.
 25 Q. All right. Before --

Page 1210

1 ARBITRATOR CHERNICK: You work with him?
 2 MR. BREEN: Mr. Carmichael and Mr. -- Dr.
 3 Kearney work together now at CTS. Sorry about that,
 4 Mr. Chernick.
 5 Q. (BY MR. BREEN) Okay. Dr. Kearney, before we
 6 get into really the substance and sum of some of your
 7 opinions here today what I would like to do is share
 8 with the panel some of your personal and professional
 9 background. All right?
 10 Tell us a little bit about your athletic
 11 background. Were you an athlete -- a competitive
 12 athlete?
 13 A. I was a competitive athlete in college in
 14 football, wrestling, track and field, relatively
 15 successful for the level where I competed, State
 16 University of New York at Brockport. I was not
 17 involved athletically during the time I completed my
 18 masters and Ph.D. and initially was establishing
 19 myself professionally. I coached at the NCAA division
 20 level -- division I level in track and field and cross
 21 country at Appalachian State University for three
 22 years from 1971 to '74. I'm, I guess, proud of the
 23 fact that we moved from 8 in a conference of 9 to
 24 second in that conference over those three years in
 25 both sports.

Pages 1207 to 1210

Page 1211

1 I took up competitive canoeing in 1975
 2 and over the next ten years had significant success,
 3 including racing internationally for five years, being
 4 between 10th and 12th in the world championships three
 5 times, winning the Olympic trials in 1980, being
 6 national champion five times and continue to be
 7 recreationally active.
 8 Q. I won't get you started on what those may be,
 9 that might be even worse.
 10 A. You've got to be a knuckle dragger.
 11 Q. A knuckle dragger...
 12 Could you please share with the panel --
 13 and for the record we have marked as Exhibit 117 your
 14 resume, but could you please share with the panel some
 15 of your experience and background as an academician.
 16 Like, for instance, where you got your degrees, what
 17 they're in and then what you did after that in the --
 18 in that area?
 19 A. To encapsulate that, I went to undergraduate
 20 school at SUNY Brockport with the primary intention of
 21 becoming a football coach; recognized through a
 22 combination of personal experience and falling under
 23 the tutelage of some excellent mentors by the time I
 24 was a sophomore that that probably was not the best
 25 thing for me to do, given my personality profile and

Page 1212

1 level of competitiveness, and decided I was far more
 2 interested in understanding the limits and factors
 3 that have an impact on the highest levels of physical
 4 performance.
 5 Started pursuing that as an
 6 undergraduate, went directly to the University of
 7 Maryland, which at the time was one of the outstanding
 8 universities in that area, having some very good
 9 professors. Became involved as the student supervisor
 10 of the human performance laboratory by my second year
 11 while I was there.
 12 Q. Hold on a second. Let me stop you.
 13 What is a human performance laboratory?
 14 A. A human performance laboratory at the
 15 University of Maryland was mostly around the area of
 16 exercise physiology, although we did have performance
 17 for motor behavior or motor learning as it's called
 18 and biomechanics.
 19 Q. Some of these -- I don't understand some of
 20 the things you're talking about -- the panel may --
 21 but in terms of what goes on at a human performance
 22 lab if you can give us a nutshell of that in general.
 23 A. There were two primary components, we
 24 provided for the classes, both undergraduate and
 25 graduate classes, laboratory experiences that were

Page 1213

1 specifically designed as part of the educational
 2 process. The laboratory was also responsible for
 3 working with the various masters and Ph.D. candidates
 4 on the development of their protocol and
 5 implementation of the testing procedures that they
 6 would use to acquire their data for masters and
 7 graduate thesis.
 8 Q. And is that in the area of performance
 9 physiology or what a performance physiologist does?
 10 A. Yes, that certainly would have been my first
 11 formal involvement as a performance physiologist and
 12 being associated with that.
 13 Q. All right. I'm sorry if I interrupted you.
 14 Could you pick up from there in terms of your
 15 experience?
 16 A. I continued to be the, if you would, student
 17 director of the laboratory through my five years there
 18 while I completed my own masters and Ph.D., left the
 19 University of Maryland in the fall of 1971 to accept
 20 an assistant professor position at Appalachian State
 21 University in Boone, North Carolina. There I taught
 22 in the health, physical education and recreation
 23 department, directed the -- founded and directed the
 24 human performance laboratory there, starting with
 25 basically an empty chunk of the area behind the mens

Page 1214

1 locker room, which was a very primitive beginning, but
 2 developed a good lab over three years, as well as
 3 coached track and field and cross country.
 4 I rose to the level of associate
 5 professor by my third year there, published probably
 6 10 or 15 articles while I was at Appalachian State
 7 based on my dissertation and data and research studies
 8 that we did while we were there.
 9 Q. And were all of those in the area of
 10 performance physiology?
 11 A. By far the preponderance of them were about
 12 performance physiology. There are a couple that had
 13 to deal with characteristics and behaviors of coaches.
 14 That was a little out of my area of expertise, but it
 15 was an opportunity that presented itself, so I worked
 16 on that.
 17 Q. Where did you go from there?
 18 A. I had the opportunity to accept an assistant
 19 professor position at the University of Kentucky that
 20 also included being the director of the human
 21 performance laboratory, which again, was a
 22 multidisciplinary laboratory, so it had performance
 23 physiology and biomechanics in it. It had some very
 24 basic motor learning characteristics to it, too. I
 25 was at the University of Kentucky with a -- with

Page 1215

1 opportunities to teach and work jointly in the medical
 2 physiology area in the UK med school and the physical
 3 therapy -- I don't remember, department or college,
 4 but...

5 Q. How long were you there at UK?
 6 A. I was at UK 12 years --
 7 Q. And then where?
 8 A. -- before I went to become the head of sports
 9 physiology at the United States Olympic Committee.
 10 Q. Why don't you tell us briefly what your sort
 11 of role and job was at the United States Olympic
 12 Committee?
 13 A. I would like to just backfill a little bit.
 14 Q. Sure. Sorry.
 15 A. During the time I was at Kentucky I rose
 16 through the academic ranks and left there as a tenured
 17 full professor and had been chairman of the
 18 department. Noting success more than anything else,
 19 okay. Polishing the ego kind of deal.
 20 I left in 1986, was recruited by Chuck
 21 Dillman to become head of sports physiology at the
 22 United States Olympic training center. That was a
 23 group that I was familiar with because of my dual life
 24 in the prior decade of being both a university
 25 professor, physiologist, human performance person as

Page 1216

1 well as competing internationally, so I had been
 2 exposed to the training center primarily as an athlete
 3 during that period of time and working with the
 4 canoe/kayak team as sort of their embedded resident
 5 physiologist.
 6 I also did some work in the area of
 7 biomechanics during that time period. And I was at
 8 the USOC in varying positions, including leading the
 9 division of about 25 sports scientists in five
 10 disciplines, instrumentation technology, computer
 11 science, sports psychology, biomechanics and my own
 12 discipline of sport physiology or performance
 13 physiology.
 14 Q. What range of Olympic athletes were sort of
 15 under your purview there?
 16 A. This may not be exactly correct, but I
 17 believe of the 42 Olympic sports, both summer and
 18 winter, that existed during that time, there were two
 19 of those sports that we did not work with. So I've
 20 worked with program directors, national team coaches
 21 and athletes from essentially 40 of the 42 Olympic and
 22 PanAm sports.
 23 Q. And I take it one area that you worked with
 24 was Olympic cycling and Olympic cyclists?
 25 A. Yes, USA Cycling was one of our, I guess I

Page 1217

1 would say, heavy using clients. They had a very
 2 well -- they developed while I was there a very good
 3 program. Their base for training was in Colorado
 4 Springs, so we worked with them significantly.
 5 Peter VanHandel, who you know, became one
 6 of my colleagues when I went there had a history of
 7 working with USA Cycling since we -- we first --
 8 the -- the laboratory had opened up in about 1978.
 9 Q. Now, in terms of Olympic cycling and USA
 10 Olympic cycling, if you could give the panel a
 11 snapshot in that time frame of what generally the
 12 process was and the purpose was of these elite
 13 athletes coming to the center there in terms of the
 14 cyclists? I don't want to cover all the other ones.
 15 Let's keep it at the cyclists for now.
 16 A. All right. We -- to expand on that question
 17 just a little bit. We worked with not only elite
 18 cyclists, we worked with very sub elite people that
 19 USA cycling was evaluating their potential for being
 20 able to perform at an international level. It is not
 21 unusual that someone who is in a remote environment
 22 become sort of all neighborhood at a particular sport
 23 and believes that they are now ready for big time.
 24 And when they actually get dumped into big time, it's
 25 fairly easy to find out that they are not ready.

Page 1218

1 One of the first things that I did
 2 working with USA cycling was development of a test
 3 that is now called the AACT test, sort of the
 4 screening test to see if you're ready for university,
 5 like ACT tests, which was -- which is an abbreviation
 6 for the aerobic anaerobic capacity test. And that
 7 allowed us in a laboratory environment to put someone
 8 on the test and move them progressively through
 9 three-minute stages of increasing intensity.
 10 We did not measure oxygen uptake or any
 11 of the other things I'll talk to you about later on.
 12 This is simply a performance test, you got on the
 13 bike, you had a load that was adjusted to your body
 14 mass, body weight -- excuse me, and height, and the
 15 longer you went, the greater your potential was. That
 16 would have been the low end of potential. At the high
 17 end of the kinds of things that we did with cycling is
 18 that we were a very significant participant in a
 19 program that was called the Atlanta project. Actually
 20 we had to change the name -- excuse me. That was
 21 called project '96.
 22 We originally started it as the Atlanta
 23 project, and that was a project somewhat comparable to
 24 what you saw on the Discovery team film yesterday.
 25 Under the formula one aspect we attempted to use, from

Page 1219

1 a multidisciplinary standpoint, from physiology,
 2 psychology from biomechanics, from technology, from
 3 application of computer sciences, to understand and
 4 optimize, beginning with the bikes.
 5 We developed some very, very unique
 6 bikes. Actually there's a photo of one of those bikes
 7 on the cover of the Scientific American article if you
 8 want to hold that up.
 9 Q. I think just for the record this one is
 10 marked --
 11 MR. BREEN: Cody, do you know what
 12 exhibit you marked this one as? This was produced at
 13 Dr. Kearney's deposition and was marked by the
 14 Respondents. We didn't remark it so it's in the
 15 packet of the Respondents and I'll get that exhibit
 16 for you.
 17 Q. (BY MR. BREEN) Is that what you're talking
 18 about, Dr. Kearney?
 19 MR. TOWNS: Just to correct the record
 20 that wasn't the photograph that I brought.
 21 MR. BREEN: Oh, this wasn't the one that
 22 you marked? Then I'll mark it, that's fine.
 23 ARBITRATOR LYON: Actually in
 24 Respondents' Exhibits there's something. It's a
 25 different one.

Page 1220

1 MR. BREEN: It's definitely --
 2 ARBITRATOR LYON: It's got a bike on the
 3 front.
 4 Q. (BY MR. BREEN) How many articles did you get
 5 in Scientific American?
 6 A. Just on. So if you have a Scientific
 7 American article you have that one. That makes
 8 absolutely no difference --
 9 Q. That's all right. Let me give it to them
 10 while we're talking about it.
 11 MR. TILLOTSON: It's Respondents'
 12 Exhibit 56.
 13 MR. BREEN: Respondents' 56?
 14 MR. TOWN: I'm thinking of 34.
 15 ARBITRATOR FAULKNER: Wait, Doctor, wait
 16 until the lawyers sort this out, if they are, and then
 17 if they don't, we will decide what to do with it.
 18 ARBITRATOR CHERNICK: Do you mind if I
 19 speak?
 20 ARBITRATOR CHERNICK: There's another
 21 picture of him on a bike that is 34.
 22 MR. TOWN: Okay. That's it.
 23 Q. (BY MR. BREEN) Is that you on the cover,
 24 Dr. Kearney?
 25 A. No, that's not me. I take up a lot more

Page 1221

1 space than that.
 2 Q. The --
 3 A. The point of that project was to approach
 4 from a very multivariant, multifaceted idea of what
 5 does it take to optimize performance, and I was a
 6 significant participant in that. I think it's also
 7 relevant to note that Chris Carmichael, as director of
 8 USA cycling at that time, was a very significant
 9 driving force behind that.
 10 Q. Okay. Now, in the continuum of the time
 11 frame that we are talking about, I mean, obviously at
 12 issue and one of the main issues in the case is the
 13 time frame of 2001 through 2004 and Mr. Armstrong's
 14 performance in that time frame. What time frame are
 15 we in now, which I understand to be earlier, which is
 16 your experience with the USOC?
 17 A. I -- I made the decision professionally to
 18 leave the USOC sports science and technology group
 19 after the Sydney Olympics in 2000. I had an excellent
 20 opportunity in the private sector working for a
 21 start-up health technology company.
 22 Q. Okay. What I was meaning was, this article
 23 in Scientific American came out in June of 1996 and
 24 some of the things that you and I were just discussing
 25 and I neglected to kind of put into a timeline of when

Page 1222

1 you were at the USOC doing this work. So that's kind
 2 of what I was getting at. What year was it when you
 3 got there and started this particular work?
 4 A. I was at the USOC and began working with USA
 5 Cycling probably within the first week that I got
 6 there in August of 1986, and USA Cycling was
 7 continuously involved or sports science and technology
 8 were continuously involved with cyclists in various
 9 ways through the time when we left for Sydney.
 10 Q. Okay. So in 1986, what I would like you to
 11 do is give a snapshot to the panel of what the sport
 12 science and technology, sort of the status, the
 13 interaction of those three components in cycling at
 14 the USOC in that time frame, sort of the '86 to early
 15 '90 time frame.
 16 A. In 1986 most of the interaction with cycling
 17 was on what I would call a relatively low tech
 18 approach. We were attempting to provide physiological
 19 assessment, talked about some of the screening
 20 involvement. I think there -- there -- the -- there
 21 was the evolution that occurred by the time you get
 22 into the '90s was relatively significant and during
 23 the time period from what -- on or about when Chris
 24 Carmichael joins USA Cycling there is certainly an
 25 acceleration of the depth and breadth of the kinds of

Page 1223

1 interaction that sports science and technology have
 2 with USA Cycling.
 3 Q. Okay. And that would be what year again?
 4 A. That would be about 1990 or -- early '90,
 5 '91, something in that time frame. Cody asked me that
 6 before and I didn't know it. I still don't.
 7 Q. He may ask you again.
 8 A. I still won't know it.
 9 Q. Now, in terms of -- you know, we saw
 10 yesterday some of the visuals of the technology that
 11 was employed later. Was that technology available and
 12 employed back in the mid eighties or is that what
 13 you're talking about when Mr. Carmichael came on board
 14 and you and he worked together into the early '90s?
 15 A. Well, obviously the technology that you saw
 16 in the video the other day.
 17 Q. It had evolved; that was much more
 18 sophisticated?
 19 A. Yes, that was the evolutionary end almost 20
 20 years after what was available in 1986. I think
 21 there's a very interesting quote in the video clip
 22 of -- of Lance saying in 1999 we had -- we did not pay
 23 a lot of attention to equipment and were essentially
 24 amateurs in applying technology to try and enhance
 25 performance. That would have been one of the best

Page 1224

1 professional cycling teams in the world and I think
 2 that that level of attention to technology and how
 3 well technology had evolved was relatively
 4 representative of what was going on in cycling and it
 5 has gotten significantly more involved over the past
 6 15 years -- is that right? No, six or eight years,
 7 excuse me.
 8 Q. Now, the -- you mentioned Mr. Armstrong.
 9 When you were with the USOC, did you have an
 10 opportunity to work with Lance when he arrived or
 11 shortly after he arrived, in that time frame?
 12 A. Yes, I was in -- I was involved in testing
 13 programs with Lance during -- during the times I was
 14 at USOC.
 15 Q. All right. So in addition to all of your
 16 background and training generally, your background and
 17 training with Olympic elite athletes and elite
 18 cyclists, you also had specific hands-on experience
 19 with Mr. Armstrong really at -- pretty close to the
 20 beginning of his cycling career; is that right?
 21 A. Yes, 1993, I think he had been committed to
 22 being a cyclist versus a triathlete for three or four
 23 years at that time.
 24 Q. All right. Now, you understand that we are
 25 here in this proceeding and that one of the issues in

Page 1225

1 this proceeding is that Mr. Armstrong has been accused
 2 of being a cheater, of cheating and of achieving his
 3 performances somehow with the aid of performance
 4 enhancing drugs or performance enhancing substances.
 5 You've been here the last few days, you've heard a lot
 6 of that, right?
 7 A. Yes, I believe I've heard that quite clearly.
 8 Q. All right. Now, have you heard people and
 9 comments being made both here and in general in the
 10 discovery in this case that there's no way -- a
 11 general sentiment of there's no way Mr. Armstrong can
 12 achieve these kind of physical performances based on
 13 his physiology without cheating through some kind of
 14 performance enhancing substances?
 15 A. Yes, I've heard that said.
 16 Q. And is it accurate to say, Dr. Kearney, that
 17 what I did in this case was call you and say,
 18 Dr. Kearney, do you have an opinion as to whether or
 19 not Mr. Armstrong can achieve these performances with
 20 his own two legs, body, mind, heart, soul without
 21 taking exogenous substances that are prohibited?
 22 A. You asked me that question in specifically
 23 that way. I think it happened to be while I
 24 coincidentally was in Austin and we had the
 25 opportunity to have lunch.

Page 1226

1 Q. Right. You were in town I think -- for the
 2 panel's knowledge you were actually in town with the
 3 Discovery team currently of which Mr. Armstrong
 4 doesn't ride for anymore and you and I met and talked
 5 about it during lunch then?
 6 A. Yes.
 7 Q. All right. So that --
 8 A. That is the question you asked me.
 9 Q. Okay. So with the general sentiment in mind
 10 that, you know, he's too strong, too fast, wins too
 11 much, with that backdrop and those accusations being
 12 made, have you looked at, through your experience,
 13 training, hands-on with Mr. Armstrong and reached
 14 opinions about that subject that you can share with
 15 this panel?
 16 A. Yes.
 17 Q. All right. And generally speaking, have you
 18 prepared something that would be helpful in conveying
 19 that in your analysis to the panel?
 20 A. Yes, I have.
 21 Q. All right. Mr. Chairman, can we start that
 22 now? Is that all right with you?
 23 ARBITRATOR FAULKNER: You don't have any
 24 objection, right?
 25 MR. TILLOTSON: No.

Page 1227

1 ARBITRATOR FAULKNER: Please proceed.
 2 A. Can I have slide 1?
 3 Just a background, this is a picture of
 4 Lance in the Tour last year, which is outside of the
 5 scope of this particular session.
 6 Next slide, please. As an overview, what
 7 I would like to do is highlight the very complex
 8 nature of extreme performance, based on some of the
 9 things that I heard yesterday I'll also attempt to
 10 weave in that success in the Tour de France also
 11 requires significantly more than, as Mr. Compton
 12 alluded, pedaling your feet around in a circle. There
 13 are many, many factors that relate to success in the
 14 Tour de France.
 15 I think my presentation will lead toward
 16 showing how a number of these are involved. I would
 17 also like to address the idea that changes -- this is
 18 number 2, that changes in specific variables cannot be
 19 linked together in a cascading kind of effect. That
 20 at every level of performance or the factors that
 21 impact performance there are multiple factors, so
 22 knowing one variable and then moving up through is not
 23 an adequate way of attempting to explain
 24 performance.
 25 Q. (BY MR. BREEN) Let me stop you for a second.

Page 1228

1 If you don't mind, I'll just kind of interrupt you.
 2 A. You are perfectly willing to --
 3 Q. Just to make sure I -- just to get a
 4 little -- just to make sure I tie in here so the panel
 5 understands now. There may be or may not later in the
 6 case be some evidence of people who take, for
 7 instance, videotapes of Mr. Armstrong or other riders
 8 with a -- some type of video technique, information on
 9 atmospheric conditions, gradings of climbs in some of
 10 these different races, the kind of body morphology of
 11 the athlete and try to come up with measures, a
 12 certain number and then say, no, this athlete could
 13 not have done this performance without cheating,
 14 right? Do you understand some people have done that?
 15 A. I've read that in the transcript of LA
 16 Confidential.
 17 Q. Right, Mr. Walsh or Mr. Ballester got
 18 somebody in France to do that on a couple of
 19 Mr. Armstrong's performances. But when you say you
 20 don't believe it's an accurate way to take a look
 21 in -- by taking a few of these things and trying to
 22 plug them into a linear line and come up with this
 23 bright line conclusion, is that what you're talking
 24 about, about people who do that type of analysis?
 25 A. I would not exactly agree with that. What I

Page 1229

1 will -- what I will try and present for you is that
 2 that is an inappropriate methodology, not in my
 3 opinion. It is an inappropriate methodology because
 4 there are multiple factors that need to be taken into
 5 consideration at each level, so there's not a
 6 possibility of doing an -- if you would a monolithic
 7 prescription of --
 8 ARBITRATOR LYON: Before we go on, I have
 9 a question.
 10 ARBITRATOR FAULKNER: The senator has a
 11 question.
 12 ARBITRATOR LYON: You said a variable,
 13 what are you specifically talk about? Give me an
 14 example.
 15 THE WITNESS: I apologize. Variables in
 16 this case would be things like projected frontal
 17 surface area, the coefficient of drag on the bike,
 18 oxygen uptake in units, whether these are in liters or
 19 milliliters, and I'll describe how some of these are
 20 related. Variables related to the resistance to
 21 movement, whether they're climbing a grade, whether
 22 they're in a flat, whether a person is riding in a
 23 Peloton.
 24 ARBITRATOR LYON: I understand that now.
 25 MR. BREEN: Okay. Sorry about that.

Page 1230

1 ARBITRATOR LYON: Just remember we are
 2 not scientists here.
 3 THE WITNESS: I know that and I -- Sean
 4 has hammered me to --
 5 ARBITRATOR FAULKNER: Think of us as
 6 educated laymen who will understand many of the
 7 concepts but explain them like you would to maybe
 8 juniors or seniors in college.
 9 MR. BREEN: Just for the record I said
 10 graduate students when I told him.
 11 ARBITRATOR FAULKNER: We are lawyers
 12 primarily now for decades, so bring it to our level.
 13 ARBITRATOR LYON: I want you to explain
 14 it to me like I was dumber than a fence post. Do you
 15 understand that?
 16 MR. HERMAN: Are you out making rabbit
 17 stew or not?
 18 Q. (BY MR. BREEN) With that in mind,
 19 Dr. Kearney, let's rock and roll through our slides
 20 here?
 21 A. Okay. The third point I will say is that I
 22 reviewed some of the data on Lance Armstrong that are
 23 available. Based on a release from Lance, I have the
 24 entire folder of data that the USOC had accumulated
 25 over the years.

Page 1231

1 Q. All right. And just for the record, that's
 2 Exhibit 118 that's been marked.
 3 Okay, Dr. Kearney --
 4 ARBITRATOR FAULKNER: Before you do that
 5 do y'all have an objection to 118?
 6 MR. TILLOTSON: No.
 7 MR. TOWNS: No.
 8 ARBITRATOR FAULKNER: Thank you. It's
 9 admitted.
 10 Proceed.
 11 A. And lastly, based on all of this, I will
 12 unequivocally state that I believe Lance Armstrong
 13 absolutely has the possibility to produce the
 14 performances that he has in the Tour de France without
 15 the aid of any cheating, doping, illegal action.
 16 All right. Next slide, please. The
 17 point of this is to emphasize for the panel, again,
 18 that performance is a very complex multifactorial
 19 situation and that it cannot be explained by knowledge
 20 of any particular variable. That performance in
 21 almost all of the stages, usually with the exception
 22 of two, is involved with team dynamics, the impact of
 23 team on the overall performance.
 24 So, again, not only do you have to know
 25 the characteristics and qualities of a particular

Page 1232

1 athlete, you also have to know how their team are.
 2 And I'll try and put this all together so that the
 3 panel has a better idea of understanding, if you
 4 would, performance at this level.
 5 Next slide, please. Now, there will be a
 6 test on this to see whether you are eligible for lunch
 7 at the end of the day. This is a model of
 8 performance. It has specifically been designed by a
 9 guy named Siler. There are multiple models of
 10 performance related to cycling that could be used,
 11 this as just one example of that -- of this.
 12 Q. What does that say up there at the top left?
 13 ARBITRATOR FAULKNER: Would somebody be
 14 kind enough to tell us what's in those dark boxes that
 15 up there --
 16 THE WITNESS: Those are also contained in
 17 exhibit --
 18 ARBITRATOR CHERNICK: I would prefer that
 19 you not do that so we can take notes. They're quite
 20 visible in the PowerPoint in Exhibit 119.
 21 THE WITNESS: I apologize on that color.
 22 ARBITRATOR FAULKNER: Go ahead and
 23 proceed.
 24 A. Basically the approach that I'll take as I
 25 walk you through this, so you have an idea, is we will

Page 1233

1 take each successive layer as we go from the highest
 2 level of achieved performance velocity and demonstrate
 3 that at that level you have both your psychological
 4 factors and you have your pacing characteristics that
 5 contribute to that.
 6 Then we will go down to the next level of
 7 potential performance velocity and we will look at all
 8 the characteristics associated with resistance to
 9 movement, and I'll provide some aspect to that. And
 10 then moving down through mean power performance and so
 11 on. And then I'll attempt to do this relatively
 12 expeditiously. But, again, please ask questions if
 13 you have them as we go.
 14 Next slide please. We will come back to
 15 this several times as we move down through.
 16 What contributes to optimal performance?
 17 There are a number of characteristics here. I think
 18 this is fairly obvious, but there are physiological
 19 factors, there are psychological factors, there are
 20 characteristics of training adaptability. I think I
 21 was remiss here that I put training adaptability and I
 22 did not include the idea of genetic endowment. That
 23 clearly that -- to be able to achieve the highest
 24 level of performance you have to have -- as the
 25 physiologist Strawn has talked about, you have to have

Page 1234

1 selected your parents well.
 2 There's only one person in this room who
 3 has the genetic endowment that is capable of achieving
 4 this level of performance and it's not any of us. And
 5 then technology factors, team dynamics, and then luck.
 6 And I know that seems like a strange area, the
 7 expert -- it's not my area of expertise, but there are
 8 a number of factors that have an impact here.
 9 Certainly there are all these people who
 10 have their aspirations in the Tour dashed by being
 11 involved in a large group crash. That has not
 12 occurred to Mr. Armstrong. An example, last year the
 13 day before the opening time trial or prologue, Jan
 14 Ulrich crashed into his own team car and ended up
 15 getting passed in the prologue by Mr. Armstrong. A
 16 very, very unusual thing, certainly something that had
 17 a lot of impact on Ulrich's performance. Mr.
 18 Armstrong has not suffered that indignity in the
 19 relevant time period of 2001 through 2004.
 20 Q. Do you know if he's ever had a flat tire in
 21 the tour?
 22 A. He's never had a flat tire, which is
 23 absolutely remarkable. That's something like 15,000
 24 miles during the Tour and I believe it's correct that
 25 he hasn't had.

Page 1235

1 MR. ARMSTRONG: One.
 2 Q. (BY MR. BREEN) One, sorry.
 3 A. One. I stand corrected.
 4 Luck is an idea of not getting sick.
 5 There's luck in a number of other -- a number of other
 6 things.
 7 So if we can move forward from here --
 8 next slide. So now we are moving down to the factors
 9 that affect the achieved performance philosophy and
 10 I'll look at those from two sides. One of them is the
 11 accuracy of pacing and the second is psychological
 12 factors. The accuracy of pacing, I think there is --
 13 there is a very -- it's very important to recognize
 14 that the U.S. Postal and Discovery team has had a very
 15 single-minded focus on being able to achieve success
 16 in the Tour. And the idea of achieving success was
 17 being able to have Lance win the tour.
 18 So that in each stage during each of
 19 these relevant tours that the team has been focused on
 20 pacing themselves and being able to, over the entire
 21 duration of the race, arrive at a situation so
 22 Armstrong was the victor. And that involves the idea
 23 of sometimes taking the lead and driving things,
 24 sometimes it's talked about sitting way in the back,
 25 not pushing things. In some cases it involves the

Page 1236

1 whole team being off the back and just looking like
 2 they're struggling, but over time they have been very,
 3 very good at achieving this.
 4 And because in cycling there is a huge
 5 difference in the amount of energy required when
 6 you're riding in the front of the Peloton and when
 7 you're riding farther in the back, at least 25
 8 percent, it makes a big difference how accurately you
 9 do your pacing.
 10 Q. Now, by 25 percent you mean the guy who's up
 11 breaking the wind versus the folks that are back
 12 behind or the people who are in the front -- the
 13 people who are behind actually use 25 percent less
 14 energy or output than the people in the front?
 15 A. Yes.
 16 Q. All right.
 17 A. To demonstrate that, we kidded about this at
 18 the end of the video yesterday, you know, go home, get
 19 on a bike and go out and get up to 25 miles an hour
 20 and see how long you're going to stay there. That's
 21 the average speed of the Peloton.
 22 To be fair there are probably some riders
 23 that are more fit in that Peloton than present
 24 company, but it also talks about the dynamics of the
 25 Peloton.

Page 1237

1 Q. All right.
 2 A. The accuracy of pacing, and I've also
 3 included in here that Mr. Armstrong has had very
 4 limited numbers of bad days, situations where for some
 5 reason that they made a mistake and he's had -- he has
 6 had some legendary bad days due to some dumb moves,
 7 but relatively pure.
 8 It's honest. That's a very honest
 9 statement.
 10 The team and Mr. Armstrong have used
 11 multiple strategies over the years, i.e. that it
 12 hasn't always been just go to the front and drive,
 13 drive, drive.
 14 Potential performance velocity, we will
 15 come down to that in the next level.
 16 Psychological factors. I think there are
 17 a couple of issues here that -- that this is not my
 18 area of expertise, but I think it's commonly accepted
 19 that there are -- there are few individuals who
 20 compete at the grand tour level who are more focused
 21 and more committed at performing at the absolute
 22 highest level. That certainly has been said in many,
 23 many ways in various kinds of press.
 24 Q. What role does pain tolerance play in the
 25 psychological factors or in this human performance

Page 1238

1 model?
 2 A. I personally believe that pain tolerance has
 3 a very significant role in here -- involved. Almost
 4 anyone will tell you that as you're at the -- as
 5 you're attempting to compete at the highest level that
 6 pain tolerance and ability to tolerate pain can be a
 7 very significant determinant. There are people who
 8 believe that as a result of the pain associated with
 9 chemotherapy, that I hope none of us ever have the
 10 opportunity to understand, has allowed Mr. Armstrong
 11 to improve his ability to tolerate pain and
 12 understanding it.
 13 Years ago, before the introduction of
 14 human subjects committees when I was at Appalachian, I
 15 did some work on the relationship between pain
 16 tolerance and pain threshold and performance. I would
 17 probably come up in front of an ethics committee,
 18 however, this has not been published, I have to admit.
 19 This has been put in some monographs of work that we
 20 have done at the university. However, knowledge of an
 21 individual's pain tolerance, and we assess that in
 22 three different ways, one, exposure to extreme cold
 23 conditions, put your forearm in a fish tank at zero
 24 degrees Celsius with the water circulating and how
 25 long you leave it in there -- that's freezing, by the

Page 1239

1 way. That's, you know, like the water around an ice
 2 cream churn. How long you leave it in there before
 3 you say it hurts or how long you -- that's that
 4 threshold. How long you leave it in there before you
 5 can't keep it in there any longer, that's pain
 6 tolerance.
 7 We also did one that was ischemic, where
 8 we had you do work with your forearm but had the blood
 9 occluded up here so that you build up all the
 10 metabolites and lactic acid and all that stuff in the
 11 forearm. That gets very interesting in a short period
 12 of time. And another one where we had a hypercapnic
 13 test where we had people working on a bicycle
 14 ergometer with just a limited amount of oxygen and
 15 that -- that gets painful as the CO2 goes up.
 16 Q. What's a bicycle ergometer?
 17 A. Just the bikes --
 18 Q. Just a stationary bike, right? A fancy one?
 19 A. I sort of digressed there. All of that goes
 20 back to saying that there was a significant
 21 statistical relationship between pain tolerance and
 22 the -- and performance ability.
 23 There also was -- you added to your
 24 ability to explain performance by knowing metabolic
 25 capability that we will talk about, oxygen uptake and

Page 1240

1 pain tolerance. Those two together explain endurance
 2 performance in the lab and ability to adjust than
 3 either one of them independently.
 4 Again, it would be my opinion, although
 5 outside of really being a performance physiologist,
 6 that Mr. Armstrong probably has an enhanced capacity
 7 for pain tolerance.
 8 Q. All right. Let's get -- let's keep on moving
 9 through our model here.
 10 A. All right. Next slide. I understand that
 11 you've already seen this and one of my colleagues has
 12 borrowed that, so we will move on from there. The
 13 point that I had for that being in there is certainly
 14 Mr. Armstrong and the -- is it okay just to use
 15 Discovery or do you want me to use Postal or what?
 16 Q. Let's use Discovery, I think everybody knows
 17 that.
 18 A. Is that acceptable?
 19 ARBITRATOR LYON: Yes.
 20 A. And Discovery have been single minded on
 21 their focus and dedication to preparation for the
 22 tour.
 23 All right, we are back to the model again
 24 and the reason that we are down to that now is we are
 25 now down to the second yellow box of the potential

Page 1241

1 performance velocity, and we will look at the -- in
 2 particular the resistance to movement factor.
 3 Next slide, please.
 4 Q. (BY MR. BREEN) Which is what, in lay terms,
 5 when you're talking about resistance to movement?
 6 A. That are -- what are those forces that are
 7 working to impede moving the bicycle forward under a
 8 variety of conditions?
 9 Q. All right.
 10 A. So gravity, obviously the steeper the climb
 11 the more resistance there is. Mechanical resistance,
 12 that's resistance within the mechanics of the friction
 13 within the bike, the aspects of the chain and so on.
 14 Rolling resistance, how much energy it would take to
 15 just roll that bike along without any other factors
 16 having any impact.
 17 Aerodynamic drag. As you saw yesterday
 18 in the video the faster that you go, the more and more
 19 important aerodynamic drag becomes. Roughly that
 20 aerodynamic drag is equivalent to the velocity in
 21 meters per second raised to the 2.67 power. Now --
 22 Q. Let me stop you for a second here. And, you
 23 know, Dr. Kearney, the average extended time during
 24 the Tour de France, in other words the number of hours
 25 that the riders are typically on the bike would be how

Page 1242

1 much in the recent years?
 2 A. 90 to 100.
 3 Q. Okay.
 4 A. I think that's about right.
 5 Q. So when you're talking about in terms of the
 6 total time of the winner in the tour, there's not very
 7 much statistically in terms of time that separates the
 8 winner from second or third or fourth; is that right?
 9 A. Oh, it's down in less than one tenth of one
 10 percent I would think. I know it's less than one
 11 tenth of one percent.
 12 Q. Sorry to interrupt you. Where were you on
 13 your slide?
 14 A. We talked about aerodynamic. Technical
 15 mastery, and that is how well the individual rides the
 16 bike, how straight a line that they hold, what are
 17 their pedaling mechanics like, all of that. And
 18 technical mastery also relative to team events like
 19 the team time trial, flexibility or ability to get
 20 into aerodynamic positions.
 21 Now, I left off on the bottom part of the
 22 slide the -- another component of the model that's
 23 called anaerobic capacity. I'm leaving that out
 24 because anaerobic capacity in its maximum, and we
 25 could spend a lot of time talking about it, can only

Page 1243

1 contribute to performance less than one minute worthy
 2 of aerobic capacity. So in events that are lasting
 3 two or three or four or five or six hours, it's only
 4 capable of putting in one minute's worth of time. So
 5 I just left it out, all right, so that you don't think
 6 it's incomplete.
 7 All right. If we move down to the next
 8 level. And basically this is not a -- a lecture in --
 9 Q. Why don't you give us the translation of
 10 this, Dr. Kearney?
 11 A. Okay. Yeah. The CliffNotes version of this
 12 is this is a model -- or this is an equation that
 13 relates the various factors that would create the
 14 resistance to drag on a bike so that you have three
 15 primary characteristics. You have the density of air
 16 so that the colder it is, then the more dense the air
 17 is, and that's measured in kilos per meter cubed. The
 18 density of the air, if you were at higher altitude the
 19 air becomes a little less dense. You have frontal
 20 surface area, and that is if I was on a bicycle in a
 21 racing position and you took a picture from where the
 22 panel is at my position on the bike, that would be the
 23 frontal surface area that I would present.
 24 Now there are two ways -- there are three
 25 ways that you can do this. You can project it based

Page 1244

1 on my height and body -- my mass and height or
 2 estimate it, you could actually do it photographically
 3 and measure that area of what the frontal surface area
 4 was, or you can get those same data by putting someone
 5 in a wind tunnel as you saw demonstrated on the video
 6 yesterday. You would -- those are sort of
 7 successively more technologically accurate. The
 8 absolute best way is to have the person in the wind
 9 tunnel and then you're actually measuring the drag
 10 that's involved.
 11 And then lastly, coefficient of drag, in
 12 other words, how slippery is that body moving through
 13 the air. Now, one of the points to sort of summarize
 14 this is that Dan Heil, who has done -- in other words,
 15 published numerous articles on this in refereed
 16 publications became very interested in the -- the
 17 potential performance velocity that Mr. Armstrong
 18 could produce when it was rumored last year, and I was
 19 working quite hard on this project, that he would
 20 attempt to break the hour record, one of the absolute
 21 classic cycling --
 22 Q. What is that -- what is the hour record?
 23 A. That is a -- a very close -- a very narrowly
 24 defined competition where you're on a Velodrome,
 25 inside, riding a specific -- a bike of specific

Page 1245

1 geometry and it's simply how far you can go in one
 2 hour. And Heil sat down and calculated all the
 3 factors based on reported power output requirements or
 4 power output values from Mr. Armstrong and has
 5 concluded, as you can see there, that based on the
 6 available data, it is his conclusion that he would be
 7 capable of -- or that Mr. Armstrong would be capable
 8 of achieving the best ever hour performances, both on
 9 a sea level Velodrome as well as an altitude
 10 Velodrome. Obviously you go further on altitude
 11 because the air is less dense.
 12 And the value of talking about that is
 13 that this indicates that the composite of all of these
 14 variables put together have been optimized by
 15 Discovery and Mr. Armstrong to reduce the drag to an
 16 absolute minimum and that physiologically where we are
 17 headed with the rest of this presentation is that he
 18 has the power to achieve these velocities.
 19 MR. BREEN: Mr. Chairman, would you mind
 20 if we just took a quick bathroom break here?
 21 ARBITRATOR FAULKNER: Why don't we take a
 22 15-minute facilities break, y'all. We will resume at
 23 35 after.
 24 (Recess 10:20 a.m. to 10:35 a.m.)
 25 Q. (BY MR. BREEN) Dr. Kearney, we are back on

Page 1246

1 the record here after the morning break, let's pick up
 2 where you left off.
 3 A. All right. I have moved -- I've moved
 4 forward one slide to -- because we are now down at the
 5 third box, mean performance power, and the factors
 6 that contribute to that will be oxygen consumption and
 7 we will describe lactate threshold, we describe
 8 mechanical frequency, and you'll remember anaerobic
 9 capacity I said that I'm just going to leave off.
 10 Now, if you'll go back one slide, please.
 11 So mean performance power by definition, just to try
 12 and help people understand this, this would be the
 13 average power, and we will normally describe this in
 14 watts or in units of work output capability the rider
 15 is able to generate over the course of the stage,
 16 whether that's a furlong that's 15 minutes long or
 17 five hours plus.
 18 Q. All right. Now, in lay people terms power
 19 when you're talking about a cyclist is what; what is
 20 the power?
 21 A. Power would be the work output capability
 22 that the individual has and is delivering through the
 23 chain to the back hub.
 24 Q. All right.
 25 A. It's the sum of the aerobic and anaerobic

Page 1247

1 capabilities as well as, and this is very important
 2 when we talk about this multifactorial, the efficacy
 3 or efficiencies with which the rider is capable of
 4 using the metabolic aspect and converting it into
 5 power. I'll use that simple term.
 6 Q. So taking his physical capabilities and
 7 actually converting it into the ability to go fast on
 8 the bicycle?
 9 A. Right.
 10 Q. All right.
 11 A. This is -- you have an engine in the front,
 12 that's sort of your metabolic capability. It goes
 13 through a transmission how effectively you use it from
 14 a pedaling mechanics and this is what's delivered to
 15 the rear wheel.
 16 Q. All right.
 17 A. Okay. There are three primary factors that
 18 we are going to discuss that have an impact on this
 19 that have been alluded to a lot and I'll try and walk
 20 you through pictorially. There's maximum oxygen
 21 consumption, lactate threshold, and we will express
 22 that in a couple of different ways, and mechanical
 23 efficiency, in other words, how effective the
 24 transmission is at being able to take the metabolic
 25 potential that you have and converting it to power

Page 1248

1 output at the other end.
 2 Okay. Next slide. So that's just the
 3 model. So maximum oxygen consumption. There's a
 4 maximum volume of oxygen that is consumed during an
 5 exercise of progressive intensity. So we put an
 6 individual on an ergometer, on a device in a
 7 laboratory that is able to accurately deliver
 8 progressively higher intensity workloads and the rider
 9 continues as long as they can.
 10 In the protocol used at the USOC where
 11 someone of Mr. Armstrong's ability they would start at
 12 150 watts and -- for four minutes and go to 200 watts
 13 for four minutes, and during the sub maximal stage
 14 that would progressively, by about a minute 35 to a
 15 minute 38 I think it is, be at 425 watts. We would
 16 give them a ten-minute rest and then we would come
 17 back and do the maximal stage that would be you start
 18 at -- we use the penultimate workload that someone
 19 completes so they start at -- Mr. Armstrong would
 20 start at 400 watts for 3 minutes 425, 450, 475, 500,
 21 then 525 watts. So progressively through that time
 22 period.
 23 Q. Hold on. Let me stop you for a second,
 24 because the numbers in terms of watts don't mean a lot
 25 to people who aren't, you know, pretty avid in terms

Page 1249

1 of -- or have power meters on their bikes and whatnot.
 2 So for an average person who was going to go out on a
 3 bike ride and have a regular bike, you know, kind of
 4 leisurely bike ride like you would with your kids or
 5 something, what would you expect to see a range of in
 6 watts?
 7 A. Average?
 8 Q. Yes. Just ball park. Some guy like me who
 9 has a trail bike with a kid on it?
 10 A. I don't want to insult any present company.
 11 I suppose --
 12 ARBITRATOR CHERNICK: Our standards are
 13 pretty low.
 14 ARBITRATOR FAULKNER: Yes, the standards
 15 are really low, for the three of us.
 16 A. Mr. Breen, I expect you could probably
 17 produce 200 or 250 watts. I ride more than
 18 recreationally. My limit is about 300 watts. Lance
 19 Armstrong is capable of doing 500 watts.
 20 Q. (BY MR. BREEN) All right. Now, there's been
 21 some -- the -- we referenced before some of the video
 22 studies and criticisms that are contained in different
 23 kinds of books. There's been some mention or maybe
 24 some mention of people who are critical of believing
 25 that Mr. Armstrong would be able to have an output of

Page 1250

1 475 or 500 or 500 and some odd watts, that level of
 2 power for certain periods of time, unless he was
 3 doping. Have you seen those type of allegations made?
 4 A. Yes, I have.
 5 Q. Do you have any opinion about that from your
 6 actual knowledge of Mr. Armstrong?
 7 A. Yes, I do.
 8 Q. What is it?
 9 A. My opinion is that he absolutely has the
 10 physiological capabilities under absolutely natural
 11 conditions to be able to produce those levels of power
 12 and that's what the next set of slides will do.
 13 Q. Beautiful.
 14 ARBITRATOR FAULKNER: Before you go
 15 there, has anyone done any analysis or studies on what
 16 the average power capacity of members of the Tour de
 17 France are?
 18 A. There have been -- there have been studies of
 19 groups of people who have the capability of competing
 20 at that -- that level. There have also been some
 21 profiles of specific individuals. I'll reference some
 22 of those. The power output requirements that I'm
 23 going to ascribe to Mr. Armstrong are very comparable
 24 to the power output requirements of the very best
 25 people that have been profiled.

Page 1251

1 Q. (BY MR. BREEN) Do you have a number in mind,
 2 J.T.? I mean, is there a range that you would expect
 3 a Tour rider, say in the 2004, 2005 Tour de France --
 4 and I assume probably Mr. Chairman is talking about
 5 the really --
 6 ARBITRATOR FAULKNER: Do you have a
 7 numerical range that you could quote for me?
 8 THE WITNESS: All right. There are --
 9 there are two kinds of numbers, one would be called
 10 power at threshold. In other words, what an
 11 individual would be able to sustain for a relatively
 12 long period of time, and those would be numbers some
 13 place in the general range of 300 to maybe 300 and --
 14 let's say 400 at the very high end of that -- of
 15 threshold. That would be a value that someone could
 16 sustain for a period of time, an hour or something
 17 like that, all right. At highest levels would be in
 18 the neighborhood of 500 watts that a person could
 19 sustain for a few minutes.
 20 ARBITRATOR FAULKNER: Okay, thank you.
 21 THE WITNESS: It maybe 550 watts for a
 22 few minutes.
 23 Q. (BY MR. BREEN) Now --
 24 ARBITRATOR FAULKNER: Let's proceed with
 25 counselor's questions.

Page 1252

1 MR. BREEN: Thank you. No problem,
 2 Mr. Faulkner.
 3 Q. (BY MR. BREEN) In terms of -- and let's just
 4 feed into that question. I mean, I assume that you
 5 personally have witnessed and been a part of tests
 6 with Mr. Armstrong where you have, for instance, the
 7 second category that you just talked about the more
 8 intense, the smaller period of time with the more
 9 intense effort, have you personally witnessed
 10 Mr. Armstrong in that type of laboratory setting?
 11 A. Yes.
 12 Q. Okay. And the numbers that he was cranking
 13 were what in terms of watts?
 14 A. At the end of a maximum test he can get to
 15 be -- doing a load between -- and consistently has
 16 been able to do this between 500 and 525 watts and
 17 that was back relatively early in the '90s. I would
 18 expect that that capability is still there, if not
 19 enhanced.
 20 Q. All right. So back in the early '90s when --
 21 I guess in '91, if my math is correct, he would have
 22 been something like 19 or so, something right around
 23 there when he was an amateur coming to the USOC for
 24 the first time?
 25 A. Yes.

Page 1253

1 Q. And so as an amateur obviously he came from a
 2 household with a single mom, no dad, not wealthy at
 3 all, you've got a kid coming into the USOC who's
 4 cranking on -- who's obviously physically very
 5 talented.
 6 A. Absolutely.
 7 Q. All right. So in terms of getting back to
 8 Chairman Faulkner's question on where that fits within
 9 the threshold of people, it sounds like --
 10 A. Range -- range of people.
 11 Q. I'm sorry, within the range. It obviously
 12 puts him in the top of the riders; it makes him one of
 13 the more elite physically capable riders if you're
 14 talking about the top 15 percent or something along
 15 those lines?
 16 A. In absolute contrast to a comment that
 17 Mr. Compton made yesterday of how can someone of
 18 average metabolic capability -- I think he used
 19 average oxygen uptake compete with the best people on
 20 the Tour de France. That's absolutely patently false.
 21 Lance Armstrong does not have average values. He has
 22 values that are among the highest values, certainly
 23 within the highest 10 percent, of any values that have
 24 ever been reported for cyclists.
 25 Q. All right.

Page 1254

1 A. That is -- that's reported in the data from
 2 the US -- the USOC labs number 118, it's been reported
 3 in Dr. Coyle's paper, and I have personally been
 4 involved in testing that -- that showed that he had
 5 that capability.
 6 Q. Great. Let's pick back up here where we left
 7 off.
 8 A. All right. Maximum oxygen uptake. Now I
 9 think it's very important for the panel not to
 10 memorize the notion. But my point here is that there
 11 are a multitude of factors that contribute to
 12 achieving a maximum oxygen consumption. How much
 13 oxygen that individual is able to extract.
 14 I think from the video yesterday you saw
 15 that kind of test. When we talked about from a -- how
 16 you would measure that, you look at the difference
 17 of -- of the change in concentration of oxygen going
 18 in, to oxygen coming out, we would normally take in
 19 20.1 -- 20.9 percent oxygen, and coming out would be
 20 14 to 17 percent, depending on how effectively you
 21 extract that oxygen, you multiply that times volume
 22 and then correct for temperature, pressure, those
 23 kinds of issues and you get a value. I'm just leaving
 24 that out, okay.
 25 But there are also many, many other

Page 1255

1 factors that go into what allows the body to do this.
 2 This is just a gross measure. There are many factors
 3 that allow the body to do that.
 4 Q. All right. Now, while we are here and
 5 obviously the panel may know probably the basics of
 6 this, but why is it that oxygen and the ability to get
 7 oxygen into the body is so important in a lot of the
 8 things that you're talking about here?
 9 A. The -- the -- that's a very nice question.
 10 The only way the body has of being able to convert
 11 potential fuel, carbohydrates, fats and proteins into
 12 contractile energy, into the ability to generate work,
 13 is through metabolism of using oxygen to metabolize
 14 those substance.
 15 Q. And what gets the oxygen to the areas it
 16 needs to be for fuel?
 17 A. That's --
 18 Q. It's just the basics, right?
 19 A. Excuse me?
 20 Q. The blood carries it?
 21 A. The blood carries it.
 22 Q. There you go. And then it looks on here a
 23 couple down on the bottom there, blood volume,
 24 hemoglobin level. There's three things we're going to
 25 be hearing about, I'm certain, over the next few days

Page 1256

1 that have a lot to do with blood so I just want to be
 2 able to give the panel a little background here, Dr.
 3 Kearney, of some of the basics of those. I imagine
 4 they're going to hear the term hematocrit. Would you
 5 tell us what that is?
 6 A. Hematocrit is the percentage of volume of
 7 blood that is formed for solid elements, so that if we
 8 took 100 milliliters of your blood, a half a cup, we
 9 put it in a centrifuge, spin it around until the solid
 10 elements due to the effect of gravity move to the
 11 bottom and the plasma move to the top and we just
 12 measure vertically how high the solid elements are to
 13 how high the plasma is. The plasma would be -- would
 14 take up roughly 50 to 60, 62 percent within a normal
 15 range of the overall volume, and the hematocrit would
 16 be the remaining -- something in the normal range
 17 would be 35 to 50. 50 is the limit under the UCI
 18 rules. Under the health check, your hematocrit may
 19 not be over 50. The normal range is about 35 to 50, I
 20 can look that up.
 21 Q. All right. Now, if, say for instance,
 22 somebody had a hematocrit of 55 or 56, okay, what
 23 would you expect physically -- like translate that for
 24 us physically visually in a word picture for what that
 25 means to that person's blood. Does it mean that

Page 1257

1 it's -- I hate to be too stupid about it, but does it
 2 make it more sludge like or thick literally,
 3 physically if the hematocrit is that high?
 4 A. I'm not a hematologist.
 5 Q. Okay. No problem at all.
 6 A. It would certainly increase its viscosity. A
 7 hematocrit at that level is outside of the normal
 8 range of expectation. It would trigger -- within the
 9 doping issues, it would trigger sanctions, it would
 10 not pass the UCI health check.
 11 Q. All right. So in terms of where they draw --
 12 where the UCI draws the, sort of, ceiling in terms of
 13 the health check, if people are talking about
 14 hematocrit level, 50 would be the ceiling? If the
 15 rider is above 50, then for health reasons they're not
 16 allowed to participate?
 17 A. That's my understanding.
 18 Q. All right. Okay. We will keep going.
 19 A. All right. Next slide, please. I know this
 20 looks like a little bit of a complex slide, but this
 21 is to try and talk about the physiological components
 22 that contribute to maximum oxygen uptake, because
 23 you've heard so much about this and how it goes. And
 24 basically VO₂, or oxygen uptake is a function of the
 25 product of the volume of blood that can be delivered

Page 1258

1 times the difference between the oxygen concentration
 2 in that blood as it goes out from the heart until it
 3 comes back to the heart.
 4 Q. So give us -- give us a word picture, though,
 5 in terms of what we are literally talking about when
 6 we talk about VO₂?
 7 A. All right. Somewhat below the graduate level
 8 I would use the idea of A VO₂ difference is you've got
 9 a fleet of dump trucks which are your red blood cells,
 10 the A part of it is the arterial saturation, in other
 11 words, how full you have each one of those dump trucks
 12 when they leave the heart. The V part of this is how
 13 much oxygen remains in those dump trucks when they
 14 come back. So that would be the AVO₂ difference, how
 15 effectively the blood is delivering oxygen to the
 16 periphery.
 17 Q. All right. Now, go right ahead now. The
 18 significance of VO₂, because I think we heard some
 19 comments yesterday about Mr. Armstrong having an
 20 average VO₂. And we see in this case and we will see
 21 that people tend to try to look at a VO₂ level and
 22 then make predicted performance capabilities based
 23 solely on that level; is that right?
 24 A. Right.
 25 Q. All right.

Page 1259

1 A. Mr. Armstrong does not have anything that's
 2 even approaching an average VO2. Now, that he is not
 3 in the room, his max VO2 is in the range of 80 to 83
 4 milliliters of oxygen per minute and I'll describe how
 5 that's calculated, or a little over six liters, 6.15
 6 liters per minute. I doubt very much if there's
 7 anyone in this room that has an oxygen uptake of 60
 8 percent of that or 50 milliliters per minute of -- of
 9 the -- of the -- oh, don't be raising your hand back
 10 there Coyle. Of the people who are participating in
 11 this area and are not among the physiological core.
 12 Q. All right. Now, while we are talking about
 13 it, there will be some comments in this case about
 14 Greg LeMond who's a former Tour de France champion
 15 from Minnesota in the United States claiming that he
 16 has a VO2 that's somewhere up in the 90s, 91, 92 and
 17 93. Are you familiar with Mr. LeMond's testimony in
 18 that case?
 19 A. I've read that testimony. I can assure you
 20 that I disagree with that in the greatest depth. I
 21 think that is a totally fallacious number for several
 22 reasons. One, I have gone to the literature and there
 23 are no published accounts of a Greg LeMond VO2 at that
 24 level; two, I have referenced the testing on the most
 25 elite cyclists that have participated in international

Page 1260

1 competitive events, including the work of Padilla and
 2 Gore.
 3 Based on their values, which were
 4 averages are in the neighborhood of 80 milliliters of
 5 oxygen for kilogram of body weight per minute or for
 6 Indurain, a five time Tour de France champion at a
 7 value of 79. He was somewhat handicapped by he was a
 8 relatively heavy individual, had a large absolute
 9 value, that a value of 93 has a probability of
 10 existing within that population of people, that's a
 11 statistical approach, but the probability that it can
 12 exist within that group of very elite people is about
 13 one in a thousand.
 14 Q. All right.
 15 A. I have also at -- at an ACSM meeting years
 16 ago saw a sheet just projected in a slide, I've been
 17 unable to obtain that information, nobody seems to
 18 know if it ever was recorded in any way and I
 19 distinctly remember believing that the device that was
 20 being used to do the test was egregiously
 21 miscalibrated at the time. Now, Greg LeMond may not
 22 have known that and may have totally believed that he
 23 had a VO2 of 93 or 94.
 24 Q. Now, setting aside cyclists for a second, do
 25 you have any familiarity with what some of the highest

Page 1261

1 VO2s of anybody in the world, not just cyclists, but
 2 other -- I assume that any cross country or Nordic --
 3 some type of athletes of that nature, do you have any
 4 idea of what some of the highest recordings just ever
 5 have been?
 6 A. The absolute highest values that I have ever
 7 seen published or referenced in a credible way are in
 8 the 93 to 94 milliliters of oxygen per kilogram of
 9 body weight. However, those always will be people who
 10 are using both upper body and lower body. In other
 11 words, they're using more muscle mass so they have a
 12 greater sink for that oxygen to be utilized than
 13 someone who is just using running, rowing or cycling.
 14 The absolute highest values in absolute
 15 terms are between 7.4 and 7.8 liters per minute and
 16 those will always be on very tall, more than 6 foot 7,
 17 very heavy, 240 pounds and up, individuals who are
 18 using whole body activity.
 19 Q. All right.
 20 A. Very large cross country skiers, very large
 21 rowers.
 22 Q. So the bottom line is that if Mr. LeMond
 23 thinks he has a 92, 3 or 4 VO2, he's got about a one
 24 in a thousand chance based on the studies that you've
 25 seen that that's really accurate?

Page 1262

1 A. The statistical probability of a cyclist
 2 within the -- within the sample of elite level
 3 cyclists at the tour level, at that level, of -- the
 4 statistical probability would be one in a thousand.
 5 Q. Why don't we go now -- move on to -- did you
 6 have a slide on Lance's VO2 or are you still -- is
 7 there anything else you wanted to touch on before we
 8 do?
 9 A. Yes, I want to touch on this for one reason.
 10 Under arterial saturation, arterial saturation of the
 11 blood is directly related to the amount of the oxygen
 12 carrying compound that is in the red blood cells.
 13 This is known as hemoglobin. You will -- you have --
 14 I have heard over the last few days and I know that
 15 you will continue to hear a number of accusations to
 16 the effect that Mr. Armstrong has artificially
 17 increased the oxygen carrying capacity of his blood by
 18 using doping methodologies. Most of those would be
 19 alluded to as that he has used some type of EPO.
 20 I have -- I would like to present to you
 21 my opinion that that is -- is absolutely not necessary
 22 and in my opinion was not something that was done. As
 23 early as 1991, the first year that he -- Mr. Armstrong
 24 came to the training center, he had two blood tests
 25 done, one as a hematocrit of 46.6, I believe it is

Page 1263

1 with a hemoglobin concentration of 16.1.
 2 Q. That's on page 5 of Exhibit 118?
 3 A. And later --
 4 ARBITRATOR LYON: I'm sorry, hemoglobin
 5 16.1?
 6 THE WITNESS: 16.1.
 7 ARBITRATOR LYON: And the hematocrit was
 8 46.4?
 9 THE WITNESS: 46.7.
 10 ARBITRATOR LYON: And he was 19?
 11 THE WITNESS: He's 19.
 12 Now I'm not a doping expert, but my
 13 understanding is that the availability of EPO was very
 14 limited at that time. It's strange my credibility --
 15 my sense of credibility that a 19-year-old from Texas
 16 who was not a professional at that time would have had
 17 the capability of spending something like a thousand
 18 dollars a month or more. I don't know that number for
 19 exact. That's just what I've heard in sort of the
 20 road side science as Cody and I discussed last week
 21 would be the cost of that.
 22 Later that year Mr. Armstrong was again
 23 at the training center. His hematocrit value was 48.8
 24 on December 6th. His hemoglobin value was 16.8. And
 25 a number that you will hear later in the week, his

Page 1264

1 ferritin concentration was more than twice as high --
 2 Q. What's the significance of that? What is
 3 that and what's the significance?
 4 A. Dr. Ashenden I expect will discuss the idea
 5 of changes in ferritin and particularly drops in
 6 ferritin as being representative of markers that
 7 may -- may lead one to believe that there have been
 8 manipulations or there's been a rapid synthesis of new
 9 red blood cells.
 10 Q. All right. And so --
 11 ARBITRATOR LYON: Ferritin concentration
 12 was what?
 13 THE WITNESS: Ferritin --
 14 MR. BREEN: He wants the level I think.
 15 Do you want the level?
 16 THE WITNESS: The two levels and they're
 17 right in those sheets are 73.8 and I think that's
 18 nanograms per deciliter, I think the units are on
 19 that, and that's in -- at June 24th, and on December
 20 6th, the number is 167.1. The point that I would make
 21 is that he has six -- in six months he has a higher
 22 level of hemoglobin in his body and his ferritin level
 23 has gone up.
 24 My conclusion of that is those are
 25 natural variations in hematocrit and hemoglobin. I

Page 1265

1 mention that in specific because in Mr. Ashenden's
 2 deposition there are three values that are taken in a
 3 very isolated way from Dr. Ferrari's lab that are
 4 ranges that are numbers of hematocrit and hemoglobins
 5 that are something like 41, 46, 41, and there are
 6 questions about how could these values change as much
 7 as that as occurred. I think these provide reference
 8 to two things: one, Mr. Armstrong has naturally the
 9 capability of having high hemoglobins, high
 10 hematocrits, i.e., is very close to the highest level
 11 that you would be allowed to race under current UCI
 12 rules, and, therefore, in my opinion, would not need
 13 to try and enhance that oxygen carrying capacity of
 14 the blood. He's already right there. And that that
 15 variability is certainly commensurate with what we see
 16 at other times, the Ferrari data, that have led to
 17 some suspicions there.
 18 ARBITRATOR FAULKNER: Before we go any
 19 further, if I could take you back to your prior slide.
 20 You have a section in here on mitochondrial density?
 21 THE WITNESS: I do.
 22 ARBITRATOR FAULKNER: Would you tell me
 23 why that is there and what the importance of that may
 24 be?
 25 THE WITNESS: The mitochondria are the

Page 1266

1 organisms -- I'm sorry if this Biology 101, but the
 2 mitochondria are the organelles within the muscle cell
 3 that are actually responsible for the true oxidative
 4 level of metabolism. We are combining the final
 5 breakdown -- excuse me, the broken down products from
 6 carbohydrates, fats and proteins, we are actually
 7 moving them through a series of enzymes to produce the
 8 energy that resynthesizes ADP, adenosine diphosphate
 9 or adenosine triphosphates.
 10 ARBITRATOR FAULKNER: Please don't go
 11 through the cycle. I had that in chemistry many years
 12 ago.
 13 THE WITNESS: You can just sort of go up,
 14 down, whatever. The density of those is very
 15 important, because the more of them that you have,
 16 then the greater the capability of the muscle tissue
 17 is to utilize that oxygen. So that if you had a huge
 18 heart that had a capability of delivering a ton of
 19 blood to the -- to the tissue, but you did not have
 20 the mitochondria available, then you could not use
 21 that oxygen.
 22 ARBITRATOR FAULKNER: All right. Is
 23 mitochondrial density genetic in your opinion, or is
 24 it capable of variation through use of any medications
 25 or drugs?

Page 1267

1 THE WITNESS: Medications or drugs? I'm
2 not aware of any medications or drugs that change
3 mitochondrial density. Mitochondrial density is very
4 well documented as being something that can be
5 increased as a result of training, as well as the size
6 of the mitochondria as well as what is called the
7 complexity or the organization within each
8 mitochondria, so that it becomes more effective.
9 Q. (BY MR. BREEN) So with hard work, hard
10 training you can increase the mitochondrial density?
11 A. You can.
12 ARBITRATOR FAULKNER: Is the same true
13 for muscle capillary density?
14 THE WITNESS: The same is true for -- the
15 same description is true for muscle capillary density.
16 Q. (BY MR. BREEN) The more you train, the
17 harder you work, you can change it?
18 A. Capillary density can be increased by
19 training, that's true.
20 Q. All right.
21 A. And it has to be appropriately targeted
22 training. You could take an Olympic level sprinter
23 and they will have relatively low capillary density.
24 If you look at an Olympic level rower, cross country
25 skier, cyclist, of long duration cycling, they would

Page 1268

1 have a much higher capillary density.
2 ARBITRATOR FAULKNER: Thank, you. Please
3 resume with counselor's questions.
4 Q. (BY MR. BREEN) I think we were going -- we
5 were headed to -- we were headed to the Lance VO2
6 slide or have we already covered that one? It was the
7 next one.
8 A. Under the details of the equation, I want to
9 add one other comment.
10 Q. Sure.
11 A. There are innumerable references in the
12 various things that I've read around this case that
13 talk -- that talk about the statements by various
14 individuals who have said that during the early to
15 mid '90s Mr. Armstrong was suggesting the need to
16 start a doping program, to start a program of
17 utilization of EPO or some other substance to enhance
18 performance capability.
19 Again, I find it highly unlikely that
20 someone who already had hematocrits and hemoglobins at
21 this level, perfectly well within the highest ranges
22 that would be needed, would be attempting to initiate
23 a program to further increase those. There is no gain
24 to be had from where he already has the -- the
25 capability of being in his training genetic

Page 1269

1 predisposition.
2 Q. All right.
3 A. You cannot go higher.
4 ARBITRATOR CHERNICK: Is the -- the
5 standards that are adopted by the international doping
6 federations of the maximum levels of these things,
7 have they remained the same over this period of time
8 from '93 to '05?
9 THE WITNESS: Those were not in existence
10 up until -- Dr. Ashenden can give you the exact date
11 on that, but about 2000, 2001, something in that time
12 period. In the early -- in the early '90s, those
13 values were not part of it.
14 ARBITRATOR CHERNICK: So your last
15 comment that someone in '93 would not have thought it
16 helpful to engage in a program of artificially
17 increasing those limits because the limits were in
18 place isn't accurate as of '93, it would only be
19 accurate as to 2000 or sometime later?
20 THE WITNESS: If you allow me, I'll --
21 I'll dispute that point. That under the arterial
22 saturation level to be able to accomplish
23 physiologically, which I contend -- I assert that
24 Mr. Armstrong is absolutely capable of, you need to
25 have -- as you can see down in the sixth line where it

Page 1270

1 says six liters equals 195, so on, you need to have an
2 arterial saturation of 19 milliliters of oxygen per
3 100 milliliters of blood, all right. Do you see that?
4 ARBITRATOR CHERNICK: Uh-huh.
5 THE WITNESS: To achieve 19 milliliters
6 you would multiply the hemoglobin concentration of the
7 blood, if we use the normal average male value of 15.8
8 and we multiply that by how much oxygen can be carried
9 by each gram of hemoglobin, 1.39, you end up with a
10 value that had 90 percent saturation.
11 Mr. Armstrong -- the normal athlete would
12 be able to compete at a high intensity at something in
13 the neighborhood of 95 percent saturation.
14 Mr. Armstrong is still capable of delivering the
15 required 19 milliliters of oxygen here, i.e., that he
16 has enough hemoglobin -- or he has perfectly adequate
17 hemoglobin to have the blood's oxygen carrying
18 capacity completely saturated. Did that make sense?
19 ARBITRATOR CHERNICK: It made sense. I
20 don't know that it's responsive to the question. I
21 was really focusing on your comment that because of
22 these maximum limits that were imposed by the sporting
23 agencies no one would reasonably want to worry about
24 this if they were already close to those limits, and
25 what I was getting to was whether that would be a

Page 1271

1 relevant consideration at a time when there were no
2 such maximum limits.
3 THE WITNESS: I appreciate that question
4 and, yes, the imposed limits would not be. My point
5 would be that the oxygen uptake capability is not a
6 limiting factor. If you're in over six liters and 83
7 milliliters and you're losing in the Tour de France,
8 it's not because of oxygen carrying capacity.
9 ARBITRATOR LYON: And does he know that
10 at the time when he's 19 or 20 or 21 years a old?
11 THE WITNESS: Does he know what?
12 ARBITRATOR LYON: Does he understand --
13 somebody -- is somebody giving him all this stuff,
14 explaining that to him?
15 THE WITNESS: In Exhibit 118, there is
16 a -- the summary of a report that I issued to
17 Mr. Armstrong after our testing in '93.
18 MR. BREEN: It's near the back, it's
19 about 15 pages from the very back of the packet.
20 ARBITRATOR LYON: So it just --
21 MR. BREEN: It looks like this.
22 ARBITRATOR LYON: Okay. Is this it,
23 October 26th?
24 MR. BREEN: Correct, October 26, '93.
25 Q. (BY MR. BREEN) Is that the one you're

Page 1272

1 talking about J.T.?
2 A. Yeah. I just -- I want to -- I personally
3 presented this to Mr. Armstrong so that I know he
4 heard that. And on the -- I'm sorry, I went right
5 past it, on the sixth page it starts with results, all
6 right? And it goes through it, it describes what
7 the -- what Lance's oxygen uptake capacity, it clearly
8 states that in liters as well as milliliters and it
9 concludes with a notion that this is within 10 percent
10 of the highest values we have ever recorded. So...
11 ARBITRATOR LYON: For anybody?
12 THE WITNESS: For anyone, yes.
13 Q. (BY MR. BREEN) Okay. Sorry, J.T., I got you
14 on that.
15 A. Let's -- next slide. Very simply, does he
16 have the engine from oxygen uptake? My answer is, yes
17 he has that engine. The three values that I have had
18 access to, one from Dr. Coyle's lab, two from the
19 USOC, the average value in liters is about 6.15 liters
20 and depending on body weight you can see down here
21 that if he is 76 kilos, which would be very heavy for
22 him while racing, but we will put that in there, that
23 gives him an 81 milliliters, and if you take that down
24 to 70 kilos, which would be the very lightest that you
25 would expect him to be racing this stage, and I use

Page 1273

1 that number as potentially that's the weight at the
2 start of a major climb in the Tour after several
3 hours, and his value there would be 88.
4 There are no reported values of oxygen
5 uptake recorded under this level of validity in
6 cyclists that are higher than those values.
7 Indurain's value was 6.4 liters, 79 milliliters;
8 that's published by Padilla. I think it's Journal
9 of -- I don't remember what.
10 ARBITRATOR LYON: You just said something
11 that there's nobody that's ever recorded power limits
12 or --
13 THE WITNESS: I didn't say that. To my
14 knowledge, there are no values outside of that range.
15 Q. (BY MR. BREEN) For cyclists?
16 A. For cyclists.
17 Q. Okay.
18 A. For cyclists. i.e., again, coming back to
19 the fact Lance Armstrong is not -- is not someone of
20 ordinary physiological capabilities, and as we work
21 through the factors that contribute to that, he has
22 the physiology that allows him to do that.
23 Lactate threshold. Next slide, please.
24 Lactate threshold would be the sustained
25 ability. In other words, this is a laboratory measure

Page 1274

1 and it is -- by measuring a byproduct of workload
2 that -- a byproduct of metabolism, lactate.
3 Q. I guess the lay person definition, what is it
4 in terms of -- regular terms that you can understand?
5 What is the measure of a lactate threshold?
6 A. Lactate threshold is the workload at which
7 lactate acid, a byproduct of metabolism in the muscle
8 cell begins to accumulate beyond a certain level and
9 in this case it's beyond a rise of one millimole of
10 lactate.
11 Q. And what does it show you? Why do you
12 measure lactate threshold?
13 A. Individuals in endurance performance capacity
14 are capable of sustaining workloads at or just
15 slightly above 6 to 10 percent above lactate threshold
16 for about one hour in time. So therefore this defines
17 the workload that an individual can sustain for an
18 extended period of time.
19 Q. So -- and if you go above this ceiling, do
20 you then have -- I mean, some people call it bonking.
21 I mean, essentially are you burning yourself out,
22 you're going to run out of energy, you're going to not
23 be productive anymore?
24 A. That's a very complex question, but, no, it's
25 not bonking. Above this level you would continue to

Page 1275

1 accumulate more lactate, which is more painful, which
 2 has more disruptive factors at the contractile
 3 ability.
 4 Q. So the idea in measuring the lactate
 5 threshold is to find that ceiling mark and then try to
 6 keep whatever level you're at under that so you can
 7 have a maximum performance?
 8 A. Yes. In long sustained kind of events.
 9 Q. And is this the type of testing we saw in the
 10 video and that has been referenced among other sports
 11 doctors and whatnot where you -- one way to do it is
 12 through the pin prick on the finger and you take the
 13 blood?
 14 A. The only way to do it is measurement of
 15 blood, either from a finger or from a catheter in the
 16 forearm.
 17 Q. All right.
 18 A. It cannot be measured indirectly. You have
 19 to measure lactate to get lactate threshold. There
 20 are -- oh, wow --
 21 Q. That black doesn't work too good on this.
 22 A. Yeah.
 23 Q. You can see it on the slides.
 24 A. You can see it on the slides.
 25 Okay. There are a number of factors that

Page 1276

1 have an impact on lactate threshold, mitochondrial
 2 density, very good catch earlier, that -- that is a
 3 very important point because the more mitochondria you
 4 have the more capability you have of using oxygen at
 5 that level and not having to rely on not -- non-oxygen
 6 dependent levels of metabolism which would increase
 7 the lactate.
 8 Muscle fiber type is important. The more
 9 slow twitch fibers that you have, the less lactate you
 10 will develop. Slow twitch and fast twitch is --
 11 people have heard a lot about muscle fiber types
 12 are -- it's important to describe them from two ways,
 13 one that basically you can't convert a fiber that is
 14 truly slow twitch from an innervation standpoint under
 15 normal conditions to run its path and go toward the
 16 other way.
 17 However, all muscle fibers have the
 18 capability of moving enzymatically. In other words,
 19 they can become pretenders, so you can look at fibers
 20 that would initially fall within what are called fast
 21 twitch. In other words, fibers that have high force
 22 output capability and fast contractile velocity
 23 through training can enzymatically become fibers that
 24 are more capable of using oxygen and, therefore,
 25 contribute to being able to do work, to be able to

Page 1277

1 perform in this way without being as prone to
 2 producing high levels of lactate.
 3 Q. All right.
 4 A. Muscle capillary density. The more
 5 capillaries that you have, the less distance it is
 6 from where you're delivering that oxygen to being able
 7 to get the oxygen inside the cell. There's a carrier
 8 protein there that's analogous to hemoglobin called
 9 myoglobin that's important and if you'll look at your
 10 slide, there's also three other things that I've added
 11 to this model just to help you.
 12 Fuel sources are important. That's how
 13 we would produce lactate changes depending on whether
 14 we are using carbohydrates, fats or proteins. The
 15 capacity of other muscle tissue to metabolize lactate
 16 so that if you have -- for example, your heart will
 17 use that, will use lactate. If other muscle tissues
 18 are metabolizing some of that lactate, then you would
 19 not have a rise in blood lactate or you would have a
 20 sink. The liver uses a lot of lactate and converts it
 21 back to glycogen --
 22 Q. Okay. Now, Dr. Kearney, let me stop you for
 23 a second. In terms of the significance to
 24 Mr. Armstrong, what's the significance or the
 25 relationship here between the VO2 and the power at the

Page 1278

1 lactate threshold, which I think is your next slide.
 2 A. That's --
 3 Q. In other words, why -- why is this -- kind of
 4 in simpler terms, you know, and concisely here, why is
 5 it important in the model to look at that and that
 6 interrelationship?
 7 A. That's important because Mr. Armstrong has a
 8 very high VO2, and he is capable of doing it at a
 9 relatively low lactate. And his peak lactate is also
 10 very low suggesting that there is probably the
 11 capability for him to go to or very close to his
 12 maximum oxygen uptake capability, 83 milliliters, and
 13 sustain that kind of power output capability because
 14 due to genetic factors to start with and something now
 15 approaching 20 years of training, that he does -- he
 16 does not produce a lot of lactate, does not accumulate
 17 a lot of lactate in his muscle.
 18 Q. Any -- I didn't -- I don't mean to skip on
 19 you on slides, but while you're talking about it, is
 20 there any other physiology aspects of Mr. Armstrong
 21 from your studies of him that you have found to be
 22 unusual but yet beneficial for him in terms of his
 23 performances?
 24 A. All right. We will -- we will skip -- right.
 25 If you could go to two slides forward, skip that

Page 1279

1 slide, it's -- skip that slide. All right.
2 Calculation of mechanical efficiency. Dr. Coyle --
3 Q. And -- you just to give -- I actually was
4 thinking of the slide that you had on the unusual
5 altitude physiology.
6 A. Do you want to completely skip mechanical
7 efficiency?
8 Q. You can give us a little nutshell, but I
9 think Dr. Coyle may talk about that, too, Dr. Kearney,
10 so I don't want to be redundant on that one.
11 A. All right. The one point -- the one point
12 that I would like to get in on mechanical efficiency
13 is that in Dr. Ashenden's depo he indicated that there
14 were not data to suggest that an individual can
15 improve their mechanical efficiency over time. I
16 patently disagree with that. There are studies by
17 Yunderup, by Horowitz, by Lee and Fiona Lindsey in
18 cyclists and there are innumerable studies in distance
19 runners and I'm sure Dr. Coyle can spend time talking
20 to you about the -- what should I say, the precision
21 of the fact that mechanical efficiency can be improved
22 over time and there is evidence to document that elite
23 level athletes can accomplish that just as has been
24 said in his publication
25 ARBITRATOR LYON: Let me stop you right

Page 1280

1 there and ask a question if you don't mind,
2 Mr. Chairman.
3 ARBITRATOR FAULKNER: Sure.
4 ARBITRATOR LYON: Some of the stuff I've
5 read is that Lance Armstrong has an abnormally large
6 heart. Does that contribute to his ability to be an
7 elite, world class athlete?
8 THE WITNESS: I do not know if he does
9 have an abnormally large heart. In an earlier
10 calculation, and I didn't spend time on it, it is not
11 the size of the heart that's important, it is the
12 amount of blood that that heart can eject per beat, a
13 value that's called stroke volume. To achieve the
14 cardiac output that is needed to make these equations
15 work where we know some of the other values but don't
16 know that he would need to have a stroke volume of
17 about 200 milliliters and a cardiac output of about 40
18 liters, nine gallons, if you would. Okay.
19 The highest recorded values that I'm
20 aware of for cardiac output are about 48 liters, so he
21 is certainly very high. We would expect the highest
22 values to be for a very large tall rower kind of
23 individual.
24 MR. BREEN: And, Senator, I think
25 Dr. Coyle has information on that, too, in terms of

Page 1281

1 that.
2 ARBITRATOR LYON: Okay.
3 THE WITNESS: To my knowledge no one has
4 ever measured his either heart volume, that can be
5 done noninvasively, or stroke volume that has to be
6 done invasively.
7 Q. (BY MR. BREEN) Why don't we go quickly to
8 the one -- let me just ask you a question about the
9 pedaling clock diagram that you have up here which I
10 think is after the -- just a couple of slides forward.
11 This is, Dr. Kearney, a slide out of your
12 article in the Scientific American, is it not?
13 A. Yes.
14 Q. And just explain to the panel briefly what
15 that represents.
16 A. All right. The footnote to this would be,
17 this was done during the 1993 testing session when
18 Mr. Armstrong was with us and I did the physiological
19 testing we described earlier. This specific testing
20 was done by my colleague Jeff Brogan, but if you look
21 at that pedal diagram, the arrows are drawn as vector
22 terms, so they represent a direction that force is
23 being applied to the pedal, as well as the magnitude
24 of that force.
25 Now, as you can see on the down stroke or

Page 1282

1 it would be on your right-hand side there is a lot of
2 force being applied and it's being applied basically
3 perpendicular to the crank. If you think of the crank
4 being the radius that's coming out through it in the
5 circumference of the circle. However, in this case,
6 there are opportunities for improvement, because once
7 you get to the dead bottom, you can still see there is
8 force that is being applied downward, all right. That
9 would be counterproductive to the production of
10 torque. In other words, converting the force that's
11 being produced into turning this thing around.
12 What you would like to see is at the
13 bottom those arrows should be sweeping toward the
14 left. So that with training an individual can learn
15 to improve their pedaling mechanics. On the way up is
16 relatively good after the bottom, but at the top you
17 can see there's virtually no force, and ideally an
18 individual can learn to push forward on that pedal as
19 they start. In other words, they would become more
20 circular in their motion so that for the same amount
21 of force by being able to redirect the way those
22 arrows are you have a greater conversion of your
23 development of force into torque, pedaling mechanics.
24 In other words, you become more
25 mechanically efficient at converting the metabolic

Pages 1279 to 1282

Page 1283

1 energy, this VO2 and lactate threshold we talked to,
 2 into power on the bike.
 3 Q. Now, let's move into the last segment of your
 4 observations if you don't mind, Dr. Kearney. I think
 5 you had some -- a few last slides on additional
 6 observations that you had?
 7 A. I do.
 8 Q. Okay.
 9 A. Next slide. I would like to talk about
 10 the -- the three things here. One relates to the
 11 Discovery team. I think you spent 45 minutes
 12 yesterday watching the video. This is a team that has
 13 consistently, through all of the years that are under
 14 context here, been very focused on the technology that
 15 goes into the bike so that they can absolutely
 16 optimize the ability to convert the rider's power into
 17 velocity.
 18 Next slide. And I totally apologize
 19 there's two misspellings in there for those of you who
 20 are bike geeks that spellcheck. I put in the wrong
 21 words, I apologize for that. Ed is misspelled as
 22 Arturo.
 23 Q. A lot of this is what we saw yesterday?
 24 A. A lot of this is what you saw yesterday, so
 25 I'm not going to spend a lot of time on this. If

Page 1284

1 there are any questions from the video, I'll be glad
 2 to spend time on it.
 3 Q. The sum and substance was in each one of
 4 those areas there was a specific effort, capability
 5 and then recovery of time that added up to help both
 6 the team and Mr. Armstrong in the Tour performances;
 7 is that accurate?
 8 A. That's absolutely accurate.
 9 Q. All right.
 10 A. In my opinion they have established a level
 11 of technological sophistication that has required
 12 every other professional team to modify the way they
 13 do business to try and stay even.
 14 Q. All right. And as Lance pointed out
 15 yesterday in the video in '99 they started on that,
 16 they embarked on it and moved forward and certainly as
 17 the years progressed other teams started doing it, but
 18 they, in your opinion, were the first most vigorously
 19 doing that; is that accurate?
 20 A. Not only the first, they've been leading edge
 21 and there's no other team, to my knowledge, that is
 22 coming close to applying the technology that they
 23 have.
 24 Q. All right.
 25 A. They have -- they have the very best people

Page 1285

1 in each one of these fields. You saw the uniform
 2 in -- that they were talking about in 2005. That
 3 saves 50 grams of drag, in a racing position.
 4 That's -- it makes a difference.
 5 All right, next slide.
 6 I want to spend just one quick second
 7 here. There's so much involved with this that comes
 8 out of all this technology. The idea of the helmet,
 9 this helmet is designed -- it's the most slippery, the
 10 least drag of any helmet, fitted right down into the
 11 curve of the back. Remember this whole uniform has
 12 the dimpling fabric, the elbow's drawn very close
 13 together, that's tested very specifically in a
 14 reiterative way to reduce the drag but still make it a
 15 comfortable position.
 16 Lance is not the slipperiest guy in the
 17 world because he's pretty big chested. The hands
 18 down, slight down bend in the elbows, thumbs tucked
 19 in, aerodynamic gloves, tight sleeves down here. The
 20 same aerodynamic stuff on the helmet. There are shoe
 21 covers down here. Wheels, there are no nuts and
 22 bolts -- I mean, every little nut and bolt has a
 23 covering on it that's down. The -- the tubing is
 24 all the optimal 6 to 1 aerodynamic tear shape kind of
 25 issue. All of this is blended, it's all hand laid up

Page 1286

1 as you saw. These are -- these are absolute machines.
 2 There's no getting around it.
 3 Q. All right. Now, the next one is --
 4 A. Next slide.
 5 Q. The next one I was thinking about was the
 6 altitude physiology.
 7 A. All right, sorry.
 8 Q. No, no, that's quite all right.
 9 A. Altitude physiology. I very sincerely
 10 believe based on having tested Mr. Armstrong in this
 11 situation that he has a very unique adaptation that --
 12 that I cannot tell you exactly why he has this
 13 adaptation or capability. But that as he changes --
 14 as you go up in altitude, the expectation would be
 15 roughly that you would lose 1 percent of metabolic
 16 capability for -- per thousand feet or 300 meters of
 17 altitude.
 18 The way that we tested this initially and
 19 verified it in the lab was that we had tested him at
 20 1862 meters, the altitude of my lab in Colorado
 21 Springs. We then and we got -- got a value of, I
 22 think, 80.1 or something milliliters of oxygen per
 23 kilogram of body weight. The next day we came back in
 24 and redid the testing with an intake air that had more
 25 oxygen put in it. We increased that concentration to

Page 1287

1 26.8 -- .08 percent and the way you would identify the
 2 impact of altitude it's a characteristic called
 3 partial pressure which is the concentration of oxygen
 4 or concentration of any gas times the barometric
 5 pressure. At -- the barometric pressure in Colorado
 6 Springs -- I know this is heavy stuff, but the
 7 barometric pressure in Colorado Springs is about 610
 8 and if you put in 26 percent oxygen out the other end,
 9 the body believes it's at sea level. It's taking in
 10 air exactly as it is at sea level.
 11 We redid a maximum test on exactly the
 12 same equipment under exactly the same protocol that we
 13 had done the day before. For him to do max tests two
 14 days in a row is not an issue. The value was exactly
 15 the same. As a matter of fact, it is infinitesimally
 16 higher under the -- it's exactly the same -- the
 17 difference is in tenths of a milliliter between sea
 18 level and altitude. In my opinion, that accrues to
 19 him the potential of a huge advantage when you're
 20 climbing, because if you started from a base value,
 21 I'll say at sea level, none of the climbs start there
 22 and you were to end at 2,000 meters, his metabolic
 23 capability relative to other riders in the Tour would
 24 actually be 6 percent higher than it was at the start
 25 of the climb.

Page 1288

1 In other words, he is not losing
 2 metabolic capacity as he's going up and a typical
 3 rider would be losing capacity. Now, let me just --
 4 ARBITRATOR FAULKNER: Go ahead, then I've
 5 got a question for you.
 6 A. One of the typical questions on that would
 7 be: Well, do elite level athletes tend to be as
 8 sensitive to altitude as normal individuals?
 9 They actually tend to be more sensitive.
 10 So that if you had a group of people who all had
 11 oxygen uptakes and were well trained in the seventies
 12 and eighties, you would expect them to drop more than
 13 the members of this room.
 14 ARBITRATOR FAULKNER: Doctor, the -- on
 15 your slide you have a reference to a 2,000 meter
 16 climb. Is that 2,000 meter figure in any way related
 17 to the actual altitudes used during the Tour de
 18 France?
 19 THE WITNESS: Yes, there are -- there
 20 are -- there are climbs that end at or -- there are
 21 probably climbs that end above -- you need to ask
 22 someone that's more familiar with the Tour, but there
 23 are certainly climbs that end at or near 2,000 meters.
 24 ARBITRATOR FAULKNER: Okay, thank you.
 25 THE WITNESS: Does anyone know how high

Page 1289

1 L'Alpe d'Huez is or anything?
 2 MR. BREEN: I'm sure Lance does. We can
 3 ask him when he comes back in.
 4 THE WITNESS: That's why I used that
 5 2,000 meters.
 6 ARBITRATOR FAULKNER: Thank you.
 7 MR. BREEN: All right.
 8 ARBITRATOR LYON: Did you ever test
 9 anybody else like that?
 10 THE WITNESS: I have not.
 11 ARBITRATOR LYON: No one else?
 12 THE WITNESS: There are a range -- there
 13 are a range of the way people adapt to altitude. We
 14 have not tested anyone else at the USOC that had no
 15 change; no one that I'm aware of.
 16 Q. (BY MR. BREEN) Now, are you say that you
 17 haven't tested anybody else or nobody else has come up
 18 with those test results? In other words, no other
 19 test on another cyclist has shown his same physiology.
 20 Have you performed the same tests on other cyclists or
 21 not?
 22 A. Yes, we performed the same test on other
 23 cyclists.
 24 ARBITRATOR FAULKNER: Have you performed
 25 those tests on any other Olympic sport, and obviously

Page 1290

1 skiing comes to mind where clearly they are at
 2 significant altitudes.
 3 THE WITNESS: They are at significant
 4 altitudes. We tend to try and test them at the
 5 altitude where they are going to race, because that's
 6 the most relevant value.
 7 ARBITRATOR FAULKNER: So you don't do any
 8 differential to sea level equivalents?
 9 THE WITNESS: What their value is at sea
 10 level is not really important. We have done a lot of
 11 hyperoptic training where we actually try to increase
 12 someone's work capacity by giving them maybe 40 or 60
 13 percent oxygen so that it's -- it's not relevant.
 14 ARBITRATOR FAULKNER: Okay. Please
 15 proceed.
 16 A. I believe -- I just -- back one slide. No,
 17 no, I'm sorry, forward one slide.
 18 I just have this in here as -- this is an
 19 example, this is from what was considered the keystone
 20 stage last year in 2005, stage 15. And this is
 21 Armstrong as they get to the critical climb moving
 22 away from the climb competitors.
 23 Now, in this stage it happened to be a
 24 situation where George Hincapie on the Discovery team
 25 had been off the front with a group of other people

Page 1291

1 who were not among the contenders, won the stage, but
2 again Lance is establishing an advantage.
3 Q. As a matter of fact, fairly significant
4 because if not the first one of the first other U.S.
5 Postal or Discovery team members since '99 to actually
6 win a stage besides Armstrong, correct?
7 A. To my understanding there have only been two
8 and both of them happened last year, of stage wins by
9 a Postal or by a Discovery team member, other than
10 Lance Armstrong.
11 Q. And the significance?
12 A. The team focuses on one result.
13 Q. Okay. There we go. All right. We are
14 getting toward the end here, Dr. Kearney.
15 A. They -- a third set of physiological data
16 that we have available on Lance Armstrong is during
17 his post cancer time when he was attempting to come
18 back and had become somewhat discouraged, went to
19 Appalachia, went to Boone, North Carolina to train
20 there in the mountains. This is written up in one of
21 the books, I think it's Not About the Bike as being
22 sort of a sentinel point where he made the decision to
23 rededicate himself.
24 There was testing done at -- in David
25 Neiman's lab at the beginning of this time and at the

Page 1292

1 end of this time. The only comment I would make here
2 is that Lance clearly was not in the -- in the
3 greatest of physical condition. The second time that
4 he came back to testing, their ergometer would only go
5 to 500 watts. He got to that point and was still --
6 still had the capability of continuing workloads and
7 the ergometer would not go any higher, so even not
8 being in great shape, his workload was still at that
9 magical 500 watt or above level. And interestingly,
10 after doing 36 hours of training, a number that I got
11 from his coach at that time, during that week he
12 actually had increased his lactate threshold by about
13 75 watts. That's a very significant increase or
14 adaptability that has occurred through the training.
15 Q. Well, doesn't that mean he was doping,
16 Dr. Kearney? I mean, he came back from cancer, he
17 wasn't doing very well, he almost quit, he went to
18 North Carolina with Chris Carmichael and the only way
19 he could have improved that much is by doping; isn't
20 that right?
21 A. There are no data to support that.
22 Q. Isn't that the problem with some of this,
23 Dr. Kearney, is that you can take numbers, you can
24 take readings, you can take things and you can twist
25 them around to pretty much support in this case an

Page 1293

1 accusation that Mr. Armstrong dopes but it's almost
2 impossible to prove a negative, isn't it?
3 A. It's impossible to prove a negative. My
4 purpose in walking the panel through this series of
5 slides is to demonstrate that on quantified values,
6 that Lance Armstrong has the power output capability,
7 has the technology, has the team dynamics, has all the
8 physiological components necessary on that power to be
9 able to create the performance in a legitimate, honest
10 legal, moral, ethical way.
11 MR. BREEN: Pass the witness.
12 ARBITRATOR FAULKNER: Gentlemen, it's
13 quarter of 12. Before we start with the next witness,
14 what time are you all anticipating that we may have
15 lunch delivered?
16 MS. ROSS: 12:30.
17 ARBITRATOR FAULKNER: Are you prepared to
18 present your cross?
19 MR. TOWNS: Sure.
20 ARBITRATOR CHERNICK: Maybe we could take
21 a quick five-minute break?
22 ARBITRATOR FAULKNER: Okay, we will take
23 a facilities break, let's make it five minutes so we
24 can get some more testimony in.
25 (Recess 11:43 to 11:52 a.m.)

Page 1294

1 ARBITRATOR FAULKNER: All right,
2 cross-examination. Please proceed.
3 CROSS EXAMINATION
4 BY MR. TOWNS:
5 Q. Dr. Kearney, I want to ask you first off,
6 the -- the testing data that we are looking at in
7 reaching your opinions, it was conducted over the
8 period of time between 1991 and 1999; is that correct?
9 A. I'm not aware of any data after 1999.
10 Q. Okay. And, in fact, you've requested an
11 opportunity to test Mr. Armstrong as recently as last
12 year and that request was denied; is that correct?
13 A. I requested that upon his announcement of a
14 retirement at the end of the tour this year that Lance
15 come to the lab for one last testing.
16 ARBITRATOR CHERNICK: This year meaning
17 2005?
18 THE WITNESS: 2005. Yes, excuse me.
19 Q. (BY MR. TOWNS) And the response you got was
20 that Mr. Armstrong wasn't interested in doing that; is
21 that correct?
22 A. I never got that formal of a response, but I
23 was asking through someone else and consent is not
24 happening.
25 Q. Okay. And you're employed by Carmichael

Page 1295

1 Training Systems?
 2 A. I am.
 3 Q. Is it okay if we call that CTS for short?
 4 A. That's fine.
 5 Q. And Chris Carmichael is the head of CTS?
 6 A. Yes, founder and CEO.
 7 Q. Lance Armstrong -- founder?
 8 A. Yes.
 9 Q. Lance Armstrong is on the board of directors;
 10 is that right?
 11 A. Yes.
 12 Q. Okay. And the points that you have made are
 13 all derived from data that are summarized in this case
 14 in Exhibits 55 and 33 and I -- I've gone ahead and
 15 opened those and put them in front of you there so you
 16 can take a look.
 17 ARBITRATOR CHERNICK: These are
 18 Respondent's 55 and 33?
 19 MR. TOWNS: Respondent's 55 and 33, yes.
 20 MR. BREEN: Which one is 33?
 21 MR. TOWNS: 33 is Dr. Coyle's testing
 22 reports, specifically on page 4 of Exhibit 33 --
 23 Respondent's 33 is table 2, which breaks that data
 24 down for us to look at easy.
 25 MR. BREEN: And he also has 118 that we

Page 1296

1 gave the panel here today.
 2 MR. TOWNS: They're in two different
 3 volumes to make it easier for the witness and panel
 4 members to open each so they can see them.
 5 The next page of that, please.
 6 Q. (BY MR. TOWNS) Is that correct, those two --
 7 table 2 and then the Respondent's 55 being your data
 8 in table form. Those are the data set that we are
 9 working with; is that right?
 10 A. No, that's not right. As we reviewed, the --
 11 the database that has Armstrong across the top right,
 12 what number is that? Can I just write on here?
 13 Q. 55.
 14 A. Okay. 55, okay.
 15 As we reviewed 55 during my deposition, I
 16 had pulled this out of one of my files and I indicated
 17 to you that was the USOC database on cycling. That's
 18 not entirely correct. It was the USA Cycling's
 19 database on testing that had been done at the USOC,
 20 and all of the USOC data are in number 118.
 21 Q. Okay. So in reaching your opinions, did you
 22 use the data in Respondent's 55, the USA Cycling?
 23 A. I have used a combination of the three sets
 24 of data or actually four sets of data because we have
 25 also looked at the Neiman data that we had in some

Page 1297

1 e-mail.
 2 Q. The Neiman data is the two -- the one-week
 3 test, the two tests on Lance, correct?
 4 A. Correct. It's the last slide that we
 5 reviewed.
 6 Q. Right.
 7 A. So I've used the sum of all four of those.
 8 Q. Is there any data in the USOC materials that
 9 you provided to us yesterday that contradicts or
 10 differs from the USA Cycling data?
 11 A. Are there -- I have not specifically gone
 12 through and compared the similarity of those two. One
 13 thing that I would note and one of the reasons that
 14 you asked me to get the USOC data was there were some
 15 questions on the column that is related to percent VO2
 16 max at threshold that is in number 55, and there are
 17 reiteratively four or five values of 79.22 in that
 18 column. You asked me about those. I said I was
 19 not -- I did not have access to the original data from
 20 which those are calculated, and would try and get
 21 access to that in the USOC database. The original
 22 data necessary to calculate that are not there.
 23 Q. Well, as we move through the data in
 24 Mr. Coyle's -- Dr. Coyle's work in Respondent's 33 and
 25 the USA Cycling report in Respondent's 55, if there's

Page 1298

1 any contradictory data in the USOC report, just let us
 2 know, okay?
 3 MR. BREEN: I'm -- I might -- I might
 4 have to just interpose a little objection. I'm not
 5 sure really what you're asking him to do there.
 6 ARBITRATOR FAULKNER: Would you explain
 7 to us what you want him to do?
 8 MR. TOWNS: Certainly. When we
 9 questioned the values at his deposition he represented
 10 he would provide the backup data as to why there was
 11 the repetitive 79.22. Yesterday we were provided that
 12 data, which I understood to be the backup to these --
 13 to this table, and now it sounds like it's not
 14 actually backup to this table. It's additional work
 15 and reports that was done on Mr. Armstrong.
 16 MR. BREEN: I'm not -- I don't think --
 17 there may be a miscommunication here.
 18 THE WITNESS: May I clarify that?
 19 ARBITRATOR FAULKNER: If you can, yes, so
 20 we can decide how to deal with this.
 21 THE WITNESS: My only clarification is
 22 that to try and provide a full and complete backup for
 23 55, I got -- through the lawyers, I got Mr. Armstrong
 24 to write a letter to the individual -- one of my
 25 former colleagues at the USOC releasing this data. I

1 went over on Monday and picked up the entire file that
 2 they have that's labeled Lance Armstrong and that is
 3 in entirety what 118 is. Nothing added, nothing
 4 deleted.
 5 MR. BREEN: It's the backup that we were
 6 asked on Friday to get that Dr. Kearney brought with
 7 him Monday.
 8 ARBITRATOR CHERNICK: Backup for 55?
 9 MR. BREEN: Right.
 10 ARBITRATOR FAULKNER: Backup for
 11 Exhibit 55?
 12 ARBITRATOR CHERNICK: Claimant's 118 is
 13 the backup for Respondent's 55?
 14 MR. BREEN: Is that right, Dr. Kearney?
 15 THE WITNESS: It is -- it is the entire
 16 file on Lance Armstrong from the United States Olympic
 17 committee, and some of the data represented in here
 18 are in this database 55.
 19 MR. BREEN: Okay. So it's 55 -- backup
 20 to 55 plus the rest of the file on Armstrong from the
 21 USOC?
 22 THE WITNESS: Right.
 23 MR. BREEN: And I apologize for not
 24 bringing that out. My apologies.
 25 ARBITRATOR FAULKNER: Okay.

1 A. Very low.
 2 Q. And the fact that they -- that our child
 3 might go out and ride their bike in the winter when
 4 other people aren't riding, that's never going to
 5 equate to matching Lance Armstrong's physiology?
 6 A. No.
 7 Q. And the notion that just sheer determination,
 8 willpower, to a person in the average population
 9 they're never going to be able to match Lance
 10 Armstrong climbing a mountain, are they?
 11 A. No.
 12 Q. So from the day he was born Lance Armstrong
 13 had genetic gifts that most of us don't have, correct?
 14 A. It would be important to -- in answering that
 15 question affirmatively, it would be important to
 16 differentiate between phenotype and genotype.
 17 Certainly he had the genotype that allowed him through
 18 training and adaptation to develop those kinds of
 19 gifts.
 20 If Lance had not trained, if he had
 21 become a lawyer, his -- his physiological capability
 22 would be well above average, but certainly would not
 23 be exceptional.
 24 Q. Okay. Mr. Armstrong and I are a few weeks
 25 apart in age. If I challenged him on the day of our

1 Proceed with your questions, please.
 2 MR. TOWNS: Thank you.
 3 Q. (BY MR. TOWNS) Now, from a higher level,
 4 Mr. Armstrong possesses very unique physiology as
 5 compared to the average population, wouldn't you
 6 agree?
 7 A. Compared to the average population?
 8 Q. Yes, sir.
 9 A. Absolutely the exception.
 10 Q. And the values that we see Mr. Armstrong
 11 possess, I think you already told us the rest of us in
 12 this room could never match in terms of an endurance
 13 athlete's physiology?
 14 A. That's true.
 15 Q. Now, the notion that one could train and -- a
 16 person -- an average person in the population could
 17 train themselves to match Mr. Armstrong's performance
 18 is believable, isn't it?
 19 A. The probability is something less than one in
 20 a billion, but I guess there's six billion people on
 21 the face of the earth, so...
 22 Q. Okay. But when well intentioned parents,
 23 like myself, tell our children work hard, train hard,
 24 you too can be Lance Armstrong, the probability of
 25 that is very, very low?

1 birth, in 20 years I'll race you and I trained as hard
 2 as he did, he would have beat me on the 20th year,
 3 wouldn't he?
 4 A. All of the evidence that I have from a
 5 historical standpoint of how rapidly he became
 6 successful as a triathlete at age 14 and 15, you saw
 7 in the video yesterday of Wayne Stetina from Shamino
 8 looking at his performance at 15 years old and saying
 9 he already had the capability of beating the best male
 10 triathletes in the country on the bike, was, yes,
 11 he -- his adaptation through the amount of training
 12 that he was doing and probably under relatively poor
 13 direction of training was exceptional.
 14 Q. And I think you told me about what the
 15 Germans referred to as end craft, correct?
 16 A. Very good, Cody.
 17 Q. I can listen.
 18 And that's the notion that there is a
 19 maximum potential that each of us possesses?
 20 A. Yes.
 21 Q. They're all different, but each of us have a
 22 maximum at which we can achieve?
 23 A. That's absolutely true.
 24 Q. And we would expect comparing someone in the
 25 average population to Mr. Armstrong that

Page 1303

1 Mr. Armstrong's end craft is greatly higher than the
 2 person in the average population?
 3 A. Yes.
 4 Q. Okay. Now, there are certainly things one
 5 can do to increase the natural end craft; would you
 6 agree with that?
 7 Let me say it a little bit different.
 8 Increase approaching the natural end craft?
 9 A. Yes. You can appropriately apply training
 10 that allows you to reach your genetic limit. You
 11 cannot modify what that genetic limit is.
 12 Q. Okay. And the closer we get to that end
 13 craft, the more difficult it becomes to increase -- by
 14 a percentage, correct?
 15 A. Absolutely. I've made a living for 20 years
 16 working on that.
 17 Q. Now, Mr. Armstrong's physiology as compared
 18 to elite cyclists is a different comparison, isn't it?
 19 A. Yes.
 20 Q. And in the world of elite cycling, there are
 21 individual values of riders that would exceed
 22 Mr. Armstrong's?
 23 A. There are individual values for certain
 24 variables that are reported to be higher than values
 25 that I know of in Lance Armstrong, that's correct.

Page 1304

1 Q. And isn't it true that one of the
 2 difficulties from the standpoint of a physiologist of
 3 comparing Mr. Armstrong to any other current rider is
 4 the lack of available data?
 5 A. That would be true in -- in multiple ways,
 6 not only data available on Lance Armstrong, data
 7 available on the rest of the people in the Peloton.
 8 No one has ever managed to work out some deal with
 9 the -- with the Peloton that they -- you know, two
 10 days before the Tour de France they all go in for
 11 physiological profiling, or two days afterwards. It
 12 would be a sensational study, I'll be glad to be
 13 involved.
 14 Q. But we don't -- we don't, for instance, have
 15 any physiology data on Jan Ulrich, correct?
 16 A. There may be data in the literature. I'm not
 17 aware of it. No, I do not have any -- I've never seen
 18 them.
 19 Q. And the lack of data to compare Jan Ulrich
 20 and Lance Armstrong has created some debate in some
 21 circles; is that correct?
 22 A. I'm not aware of that.
 23 Q. Well, if someone were to say Mr. Armstrong
 24 can't compete physiologically with Jan Ulrich the lack
 25 of data really keeps that from being any type of

Page 1305

1 sophisticated study, doesn't it?
 2 A. Cody, in my opinion that discussion is
 3 moronic, because it gets down to the standpoint that
 4 you can -- you can be able to describe performance in
 5 something as complex as the Tour de France based on
 6 knowledge of any one, two, three, four variables, when
 7 I hope as a result of the presentation that I just did
 8 that people understand the only way is to understand
 9 this is a very complex multifaceted kind of
 10 performance and back to you can't describe it. There
 11 is not a single predictor of performance capability in
 12 the Tour de France. It is way, way too complex an
 13 event.
 14 Q. Okay. Now, distilling all the physiological
 15 factors down to what cycling is, it's -- it basically
 16 comes down to the ability to transfer power, doesn't
 17 it?
 18 A. It comes down to the ability to generate
 19 power, to effectively convert that metabolic power
 20 into torque on the bike, and then to effectively apply
 21 that power to be able to move through the Tour. For
 22 example, and the reason I make that last point is you
 23 virtually never see Lance Armstrong out at the front
 24 of the Peloton when the hammer is down unless it is
 25 what they describe in the video as one of the crucial

Page 1306

1 moments. Lance has very good lieutenants that they do
 2 that work.
 3 Q. I understand, and really taking away what
 4 happens at the top and just funneling down to the
 5 power itself, and I understand the top part is the
 6 more interesting and all that, but the -- the power
 7 that's generated if anyone can generate enough power,
 8 they can beat Lance Armstrong, correct?
 9 Let me try to make the question more
 10 simple, because you look confused. Using published
 11 power that Mr. Armstrong is attempting to achieve at
 12 his training, he's attempting to achieve, as I
 13 understand it, 6.7 kilograms -- I'm sorry, 6.7 watts
 14 per kilogram.
 15 A. At -- in that roadside science kind of stuff
 16 you've thrown up, yes, which is about 500 watts of
 17 power.
 18 Q. Now, by my calculation, then, I should be
 19 able to beat Lance Armstrong by simply producing 700
 20 watts of power?
 21 A. I'll entertain the -- if you could sustain
 22 700 watts of power for six hours, have at it, no
 23 problem.
 24 Q. Okay. So then it's becomes really a function
 25 of weight to power, correct, given -- sustaining the

Page 1307

1 power output?
2 A. Certainly the power output per kilogram of
3 body weight is a significantly more relevant term than
4 absolute power output capability. And when you're
5 talking to Mr. Coyle later -- Dr. Coyle later in the
6 week, one of the factors that he attributes to Lance's
7 improvement over time and particularly in the pre to
8 post cancer time is that he significantly reduced his
9 lean body mass or fat free body mass and overall body
10 weight, body mass and that allows him, with the same
11 power output, to have a higher power output in watts
12 per kilo.
13 Q. Okay. Now, let's look at -- first, let's
14 look at Respondent's 55, which is the USA Cycling
15 data. And if we look at the first tests that are
16 reported in the table down on Mr. Armstrong, they were
17 conducted in February 27th of 1991, correct?
18 A. Yes, those were -- those were done by my
19 colleague, Pete VanHandel, and those are the data that
20 are replicated on the first three or four pages of
21 118.
22 Q. Very good. Now, can you tell us in that
23 first test what Mr. Armstrong's reported weight value
24 was?
25 I'm just looking at the table in

Page 1308

1 Respondent's 55. It appears to 80.5 kilograms. Do
2 you see that.
3 A. Okay. Yes, 80.5 kilos, sorry.
4 Q. Okay. Now, if we look at the VO2 in whole
5 volume, liters per minute in that same test, we see
6 that Mr. Armstrong, in February 27, 1991 had a
7 calculation of 6.2 liters, correct?
8 A. Yes.
9 Q. Then if we look at the second test of
10 Mr. Armstrong in the table it was conducted on
11 December 5 of 1991, correct?
12 A. Mine is chopped off. Okay. Where he weighs
13 80.2 kilos?
14 Q. Yes.
15 A. Okay.
16 Q. All right. And that was my next question, he
17 was 80.2 kilograms with a VO2 of 70.3 -- I'm sorry.
18 We are looking at whole values, 5.64, correct?
19 A. 5.64, yes.
20 Q. All right.
21 A. I would note -- I would remind you and the
22 panel that one of those is just at the beginning of
23 race season and one is post season by three months.
24 Q. Okay. Now, chronologically speaking, it
25 appears that the third test in the data that we have

Page 1309

1 performed on Mr. Armstrong is reported in Dr. Coyle's
2 report which is Respondent's 33 in November of 1992?
3 You'll need Respondent's 33. Do you see
4 the November 1992?
5 A. September or November?
6 Q. November.
7 A. I don't see any November in 33. I see a
8 January and then I see a September.
9 Q. In table 2 of Dr. Coyle's report at page 4 of
10 Respondent's 33.
11 A. January '93 and September of '93.
12 MR. TOWNS: May I approach?
13 THE WITNESS: Sure.
14 ARBITRATOR FAULKNER: Yes.
15 A. I thought you were saying '93, I'm sorry.
16 Q. I'm sorry, '92.
17 A. Oh, okay.
18 Q. And in November of '92 we see Mr. Armstrong's
19 weight at 78.9 kilograms, correct?
20 A. Yes.
21 Q. And his whole value of VO2 uptake is 5.56
22 liters at that point?
23 A. Yes.
24 Q. Now, the -- chronologically speaking, the
25 next test of Mr. Armstrong is back to the USA Cycling,

Page 1310

1 Respondent's 55, and that was conducted on
2 January 29th, 1993, correct?
3 A. Okay.
4 Q. And at that time Mr. Armstrong's body weight
5 was 76.5 kilograms, correct?
6 A. All right.
7 Q. And his VO2 in terms of whole volume was
8 5.82?
9 A. Okay.
10 Q. Do you agree with that?
11 A. Yes.
12 Q. Let's look chronologically at the next test
13 which is back to Dr. Coyle's report and it's in
14 January of 1993, his body weight at that time is 76.5
15 kilograms?
16 A. Okay.
17 Q. The whole volume VO2 of 5.82 again. Do you
18 see that?
19 A. All right.
20 Q. Now, in the December -- I'm sorry, in both
21 January '93 reports, Dr. Coyle's report and in this
22 USA cycling database, Mr. Armstrong's weight and whole
23 volume VO2 were recorded identical, correct?
24 A. Okay. I would assume that that means that
25 USA cycling has taken the data that they had available

Page 1311

1 to them, probably from Mr. Armstrong and put it into
 2 the database, and that would be a very logical thing
 3 for them to do.
 4 Q. Okay. Now, let's look at the next test
 5 chronologically that appears on the USA Cycling
 6 database and it's 9-13-93?
 7 A. Those were the data that I was involved in
 8 collection of.
 9 Q. Okay. And at that time Mr. Armstrong's body
 10 weight was 75.9?
 11 A. That's two or three weeks after the world
 12 championships that he won.
 13 Q. And his VO2 uptake was 6.08?
 14 A. Correct.
 15 Q. And this was right after the world
 16 championships?
 17 A. Yes.
 18 Q. Do you recall that year what month the world
 19 championships were in?
 20 A. They almost certainly were in August. I'm
 21 sure since that was his first world championships,
 22 Lance can tell you exactly when they were.
 23 Q. Okay.
 24 A. They would have been in August. They
 25 absolutely would have been in August.

Page 1312

1 Q. Now, if we look at Dr. Coyle's report on
 2 Respondent's 33, the next data point we have is also
 3 in September of 1993?
 4 A. Yes.
 5 Q. And his body weight at that test was 75.1.
 6 Do you see that?
 7 A. Yes.
 8 Q. And his O2 uptake there is 6.10, correct?
 9 A. Correct.
 10 Q. All right. Now --
 11 A. These tests are taken within a couple of
 12 weeks apart.
 13 Q. Okay. But right after the world
 14 championships, correct?
 15 A. Both of those are within one month of the
 16 world championships.
 17 Q. And as you've already pointed out, that was
 18 Mr. Armstrong's first world championship victory,
 19 correct?
 20 A. Yes.
 21 Q. All right. Now, in your PowerPoint, one of
 22 the values you used was Mr. Armstrong's VO2 uptake,
 23 correct?
 24 A. Yes.
 25 Q. All right. And I'll point you to a --

Page 1313

1 A. I'm aware of that value. I used for
 2 mathematical purposes, 6.1 liters.
 3 Q. Okay. You used these first -- depending on
 4 if there's a repeat, which it sounds like there is,
 5 six tests, you used the three highest values to
 6 calculate Mr. Armstrong's VO2 at various weights; is
 7 that right?
 8 A. They are the three highest values. They,
 9 however, are the three values that are taken closest
 10 to the racing season, which I felt were most
 11 representative of the performance capacity that he
 12 would bring to an event.
 13 Q. Okay. Now, let's look after 1993 at the
 14 three data points that we have left on these two
 15 charts, the next one is in January of 1994?
 16 A. That's on 55?
 17 Q. Yes, that's correct.
 18 A. Okay.
 19 Q. And Mr. Armstrong's body weight at that point
 20 is 78.7 kilos; is that right?
 21 A. Yes.
 22 Q. And his VO2 uptake is 5.64?
 23 A. Yes.
 24 Q. The next two come from Dr. Coyle's records,
 25 first in August 1997?

Page 1314

1 A. Yes.
 2 Q. We will talk about that date in a minute. I
 3 understand it's significant. Mr. Armstrong's body
 4 weight at that time is reported as 79.5 kilograms?
 5 A. Yes.
 6 Q. O2 uptake at 5.29?
 7 A. Yes.
 8 Q. And then the final data point on Dr. Coyle's
 9 records is November of 1999, and at this point his
 10 body weight -- Mr. Armstrong's body weight is at 79.7?
 11 A. Yes.
 12 Q. And his O2 uptake is 5.7?
 13 A. Correct.
 14 Q. Now, as I understand it, in 1993 that was
 15 also the time when you did the altitude testing on
 16 Mr. Armstrong?
 17 A. Yes, it is.
 18 Q. And the results of the altitude testing
 19 demonstrated that Mr. Armstrong had in addition to his
 20 unique physiology in that he appeared less affected by
 21 altitude, correct?
 22 A. That would be what I would conclude from
 23 those two consecutive tests.
 24 Q. Okay. Indicating that he should do far
 25 better in mountain stages than similar riders who were

Page 1315

1 more affected by the altitude, correct?
2 A. All other factors equal, yes. And --
3 Q. Okay. Now, we talked about weight in terms
4 of how that is an important factor as compared to
5 power. When we look at the weight of these data
6 points, Mr. Armstrong's lowest recorded weights are in
7 the 1993 data points, correct?
8 A. The -- the lowest on the databases are 1993,
9 yes, sir.
10 Q. Okay. And --
11 A. Those are also closest to competitive shape.
12 Q. I understand. And similarly his highest --
13 well, two of the three highest VO2 uptake measures are
14 in that same period?
15 A. Yes.
16 Q. And this is also, as we just discussed, the
17 time that he won the world championships?
18 A. Yes.
19 Q. It's the time when you did the testing on the
20 altitude, correct?
21 A. Yes.
22 Q. Now, did Mr. Armstrong race in the 1993 Tour
23 de France?
24 A. Historically I don't know the answer to that,
25 but my -- I would say that he doesn't race a tour

Page 1316

1 until probably maybe -- I don't know. Maybe -- I
2 don't know.
3 Q. Okay. Fair enough. Fair enough.
4 Now --
5 A. I don't -- I don't think so.
6 Q. Now, let's look at the data set in '97.
7 A. Okay.
8 Q. Now, as you -- I believe it was you or
9 Dr. Coyle that explained to me -- and now that I think
10 about it, I believe it was Dr. Coyle, but you were
11 there -- explained to me in '97 Mr. Armstrong was --
12 was preparing to come back after his cancer treatment,
13 correct?
14 A. This was post cancer. I don't know if by the
15 time this test is taken he actually has thought about
16 coming back to actually competing.
17 Q. Okay. Well, do you recall Dr. Coyle, as I
18 remember it, explaining that Lance was trying to
19 assess his fitness and determine that?
20 A. I think that -- that's a very reasonable
21 statement.
22 Q. Okay. And then when we look at the '99 data
23 set, it's in November of '99, correct?
24 A. Yes.
25 Q. And the Tour typically ends in the last days

Page 1317

1 of July; is that right?
2 A. Yes.
3 Q. Okay. Now, comparing body weight of
4 Mr. Armstrong in '97 and '99 to his body weight in the
5 1993 testing or in the data we have on 1993 testing --
6 (Discussion held off the record.)
7 ARBITRATOR FAULKNER: Please proceed.
8 MR. TILLOTSON: Give us just one second.
9 MS. EVORA: How's that?
10 ARBITRATOR FAULKNER: Perfect.
11 Proceed whenever you're ready.
12 MR. TOWNS: Okay. I'll ask the question
13 again.
14 Q. (BY MR. TOWNS) Looking at the '97 to '99
15 data points, as compared to the testing that was done
16 in '93, what has happened to Mr. Armstrong's weight?
17 A. Compared to the '93?
18 Q. Yes.
19 A. He is heavier, but it's also a different part
20 of the year.
21 Q. I understand that. And we will talk about
22 that in just a second, but the values that we have
23 demonstrate that he weighs more than he did in '93,
24 correct?
25 A. Yes.

Page 1318

1 Q. And the VO2 uptake levels show that his VO2
2 uptake is less than it was in 1993; is that right?
3 A. Yes. He's also fatter.
4 Q. Okay. I didn't say that, for the record.
5 Now, this is the -- the November 1999
6 data is a few weeks after the conclusion of the 1999
7 Tour de France, correct?
8 MR. BREEN: The November '99; is that
9 what you said?
10 MR. TOWNS: Yes.
11 A. It could -- it could be up to 12 weeks
12 afterwards, but it is afterwards, yes.
13 Q. (BY MR. TOWNS) Okay. In the -- in the range
14 of data that we see on Mr. Armstrong in these points,
15 there's, what, about 5 kilograms of fluctuation in his
16 weight throughout the different time periods?
17 A. In the time periods that we have described
18 there was about five kilos. He later on loses
19 significantly more body weight.
20 Q. Okay. When does he do that?
21 A. I do not have the data on that, but I know
22 that over the last few years he's attempted to start
23 the Tour between 74 -- around 73, 74 kilos.
24 Q. Okay. Do you know what weight he started the
25 1999 Tour de France?

Page 1319

1 A. I have no idea.
 2 Q. Okay. Would you expect that in as many as 12
 3 weeks following the 1999 tour that Mr. Armstrong would
 4 have gained 8 kilograms?
 5 A. 8 kilograms?
 6 Q. Yes.
 7 A. You certainly could gain 8 kilograms --
 8 Q. I know I could?
 9 A. -- in 12 weeks. I -- in the last six I've
 10 gained close to that. I would think it would be very
 11 unusual that he would have gained 8 kilos in those 12
 12 weeks.
 13 Q. Okay. Everything we know about Mr. Armstrong
 14 is that he is very fastidious about his training,
 15 correct?
 16 A. Fair enough.
 17 Q. Okay. And that goes with his diet and
 18 weight, doesn't it?
 19 A. The -- I think it is a very fair conclusion
 20 to -- that -- to say that he has become significantly
 21 more focused on his dietary behaviors and his weight
 22 management over the time since he began winning the
 23 Tour de France than he was in the time period before
 24 that.
 25 Q. Okay. Now, comparing the testing that was

Page 1320

1 done around his world championship victory in 1993 --
 2 A. Yes.
 3 Q. -- we definitely see that at the period of
 4 time concluding the Tour de France in 1999 that
 5 Mr. Armstrong -- I understand there are perhaps are a
 6 few weeks there, but has gained weight, correct?
 7 A. Has gained -- he is heavier, yes.
 8 Q. Okay. And in terms of his VO2 uptake from
 9 the '93 period around his world championship results,
 10 his uptake has decreased?
 11 A. That's true.
 12 Q. Okay. Now, in 1993, Mr. Armstrong won the
 13 world championships, correct?
 14 A. Yes.
 15 Q. And at that time all of his physiology -- we
 16 never see values that high again in the data set we
 17 have after 1993, correct?
 18 A. That is true. However, one, you have an
 19 intervening cancer treatment, chemotherapy, detraining
 20 to the absolute greatest degree, and then you have no
 21 data points that are taken just prior to a racing
 22 season when we would expect his fitness to be optimal,
 23 or immediately after the racing season.
 24 I do -- to go a little deeper into where
 25 you're headed here, if you think of a tour ending

Page 1321

1 in -- let's say at the beginning of September and an
 2 individual who is going to train for grand tours and
 3 maybe race some of the classics in April, you now have
 4 a period of basically only five months of, quote,
 5 unquote, off season. They'll use at least three of
 6 that as preseason. So your off season is now no more
 7 than two months, and I would expect if there is going
 8 to be any level of detraining that's going to occur
 9 during the year, it would be during the time when
 10 there is decreased volume, but especially decreased
 11 intensity of training that would occur in September
 12 and October, the two months preceding November.
 13 Q. By any measure, do you believe that
 14 Mr. Armstrong could have started the November 1999
 15 Tour de France at 68 kilograms?
 16 A. Actually the question you talked about was
 17 the November Tour de France?
 18 Q. I'm sorry, the 1999 Tour de France, do you
 19 think there's any way that Mr. Armstrong started that
 20 tour at 68 kilograms?
 21 A. That would be very hard for me to believe.
 22 His lean body mass -- I would have no reason to accept
 23 that proposition.
 24 Q. Okay. Well, in 1993 at the Tour de France
 25 Mr. Armstrong was unable to finish. Are you aware of

Page 1322

1 that?
 2 A. That -- that would be an incorrect
 3 interpretation and it is very unusual that someone
 4 rides the tour in their first times and completes all
 5 the stages and in most cases it is strategically
 6 decided which stages and how long they'll stay in.
 7 Every year there are people who drop out of the tour
 8 very -- a lot of people who drop out of the tour.
 9 Q. Okay.
 10 A. Of the about 200 that start the tour,
 11 typically the finishing numbers, you'll need to get
 12 these from a cycling expert, is probably no more than
 13 150 or 160. So to say that he was unable to complete
 14 it, I believe, is incorrect. To say that he didn't
 15 complete it, if that's the case, I'm fine.
 16 Q. But all of the testing in 1993 showed
 17 Mr. Armstrong at -- the data that we have, at the
 18 height of the measures, that he was unable to
 19 finish --
 20 A. I disagree --
 21 Q. -- or did not finish?
 22 I understand your point.
 23 A. Disagree, yeah.
 24 Q. He did not finish; how's that?
 25 A. He did not finish. You could take the

1 alternative that he was entered into the tour as a
 2 great block of very high intensity long duration
 3 training, and that that training, in fact, facilitated
 4 his acquisition of the extremely good fitness level
 5 that we saw demonstrated in the winning of the world's
 6 and was later verified by testing. That would be the
 7 rival hypothesis.
 8 Q. Okay. Do you know -- do you have any
 9 information about the makeup of the 1993 team?
 10 A. I -- in some of the depositions -- I'm not
 11 a -- I'm not a cycling fan. I'm a cycling
 12 physiologist.
 13 Q. Okay. So you don't have any information one
 14 way or another about the makeup of that team; is that
 15 correct?
 16 A. No. I mean -- and I'm sure there are people
 17 that they could list every one -- all nine people on
 18 that team.
 19 Q. Let me ask you something that you said that I
 20 want to make sure I understand, and that is that
 21 the -- the -- I wrote myself a note here if I can find
 22 it. When lactate builds up in a muscle, do I
 23 understand your testimony that it interferes with the
 24 ability of that muscle to contract?
 25 A. At very high levels, that's true, yes.

1 that could -- could contribute to success.
 2 Q. And I don't mean to put you on the spot, but
 3 I think you told me that you would share in some of
 4 the criticism that's been levied at this report?
 5 A. I would share in some of the criticisms that
 6 have been levied against this report that -- by
 7 professional colleagues and by others, yes.
 8 MR. TOWNS: Okay, pass the witness.
 9 MR. BREEN: I've got nothing further for
 10 Dr. Kearney. I know the panel finds that hard to
 11 believe since I'm affiliated with Mr. Herman.
 12 ARBITRATOR FAULKNER: Any questions?
 13 ARBITRATOR CHERNICK: I have no
 14 questions. I don't intend to embarrass myself.
 15 ARBITRATOR FAULKNER: Any questions?
 16 ARBITRATOR LYON: No.
 17 ARBITRATOR FAULKNER: I have no
 18 questions.
 19 Thank you very much, sir. You may step
 20 down.
 21 ARBITRATOR CHERNICK: Thank you, Doctor.
 22 MR. HERMAN: And may the witness be
 23 excused?
 24 ARBITRATOR FAULKNER: Is the witness
 25 excused, gentlemen?

1 Q. Okay. And if I understand your testimony
 2 correctly, Mr. Armstrong's physiology allows him to
 3 reach that point much later than other cyclists
 4 perhaps; is that correct?
 5 A. All of the data that we have on Lance
 6 Armstrong suggests that his ability to generate high
 7 levels of lactate is very muted and is probably muted
 8 by some genetic predisposition and is muted by the
 9 development of the training adaptations, the capillary
 10 density, the mitochondrial density, the mitochondrial
 11 size, the complexity, propensity of the type one
 12 fibers. So that his peak lactates are significantly
 13 lower than you would expect to find in other athletes.
 14 Q. Now, if I understand your testimony
 15 correctly, it's that no single variable can attempt to
 16 interpret what allows Mr. Armstrong or anyone else to
 17 achieve it?
 18 A. If I've accomplished that, we have gone a
 19 long ways here.
 20 Q. okay. And I understand I've asked you about
 21 Dr. Coyle's report explaining efficiency or using
 22 efficiency data to explain Mr. Armstrong's
 23 performance. You don't necessarily agree with that,
 24 do you?
 25 A. I think it's one of a multitude of factors

1 MR. BREEN: Yes.
 2 ARBITRATOR FAULKNER: It's 12:35. Why
 3 don't we go ahead and prepare to take our lunch break.
 4 (Recess 12:36 to 1:31 p.m.)
 5 ARBITRATOR FAULKNER: Let's go back on
 6 the record. Counsel, have you had any opportunities
 7 to chat about the issues you raised with regard to
 8 Ms. O'Reilly, Mr. Walsh and Mr. Anderson?
 9 MR. HERMAN: We have, Your Honor,
 10 however -- Russell, did you print that yet?
 11 MR. PRYOR: Marianne is making copies.
 12 MR. HERMAN: We have got an agreement on
 13 language for governing Mr. Anderson and I have -- I
 14 think that we have at least a substantive agreement on
 15 this waiver of confidentiality by the Claimants.
 16 ARBITRATOR FAULKNER: Okay.
 17 MR. HERMAN: If they wish to do something
 18 else, but that -- that agreement is -- has just -- I
 19 dictated it over the lunch hour, it's been e-mailed
 20 up, it's been printed and Marianne is now making
 21 copies of it. So I haven't cleared the -- I think
 22 I've cleared the substantive terms.
 23 ARBITRATOR FAULKNER: That's fine, as
 24 long as we keep y'all focused on getting it done. We
 25 will revisit this topic perhaps after the next witness

Page 1327

1 so -- you know, we're just trying to move y'all along
 2 to we keep this as close to on time as we can get it.
 3 MR. HERMAN: Okay.
 4 ARBITRATOR FAULKNER: Why don't y'all
 5 please -- if y'all -- if everyone is prepared, why
 6 don't you call your next witness.
 7 MR. HERMAN: Just one second. Marianne
 8 hand one of those to Mr. Tillotson, please.
 9 Mr. Armstrong?
 10 MR. HERMAN: Introduce yourself, please,
 11 sir.
 12 ARBITRATOR FAULKNER: He needs to be
 13 sworn.
 14 MR. HERMAN: I'm sorry.
 15 LANCE ARMSTRONG,
 16 having been first duly sworn, testified as follows.
 17 ARBITRATOR FAULKNER: Proceed.
 18 DIRECT EXAMINATION
 19 BY MR. HERMAN:
 20 Q. Introduce yourself, please.
 21 A. Lance Armstrong.
 22 Q. You live in Austin, Mr. Armstrong?
 23 A. Yes.
 24 Q. And you are the Mr. Armstrong that we have
 25 been -- there has been a lot of conversation about

Page 1328

1 here, correct?
 2 A. Yes.
 3 Q. All right. The panel has seen a videotape of
 4 sort of how you came to find yourself as a
 5 professional cyclist, but could you just give us a --
 6 sort of a brief overview of how you found yourself
 7 doing this for a living from -- I mean, just from --
 8 up until the time you went to the -- say, the USOC
 9 training facility when you were 18 or whatever?
 10 A. Right. Well, I was born and raised not far
 11 from here. I was actually born in Dallas, raised in
 12 Plano. I grew up basically playing sports and
 13 non-traditional sports for Texas, running 10Ks when I
 14 was a kid and then eventually getting into competitive
 15 swimming in Plano at the age of 12 and somewhere along
 16 the way saw an advertisement for a kids triathlon
 17 called the Iron Kids triathlon, which piqued my
 18 interest.
 19 In order to do that, I needed to buy a
 20 bike. I got a bike, combined the three sports and
 21 ended up finding quite a bit of success, not just in
 22 Iron Kids, but shortly thereafter, too, on a
 23 professional level, turning professional in triathlon
 24 at the age of 15 and traveling basically all over
 25 North America, Mexico, the Caribbean, competing

Page 1329

1 professionally. And at that time the predicament for
 2 me was this lifelong dream of wanting to be an
 3 Olympian and the Olympics were -- it was not an
 4 Olympic sport at that time and I was not so much
 5 forced but I was encouraged to make the switch to
 6 cycling because that was an Olympic sport.
 7 So I made a visit to an Olympic training
 8 center back in 1989 just as a trial, and shortly
 9 thereafter gave up triathlons for good and focused on
 10 cycling.
 11 Q. Mr. Carmichael has been mentioned as having
 12 some connection with that decision to focus on
 13 cycling. Tell us how that happened.
 14 A. Well, there were a lot of people that had,
 15 you know, influence there. And, as you know -- as a
 16 young sportsman growing up, there's a lot of coaches
 17 and people and mentors who come along and help you
 18 make that decision. And I probably had made up my own
 19 mind before I technically met Chris, because he came
 20 in in 1990 and in '89 I was working with the Junior
 21 National Coach who was a guy named Bob Bills who had
 22 told me that I had a lot of talent. But at the same
 23 time on my own I realized that the sport of triathlons
 24 was not necessarily getting itself together and wasn't
 25 going to become an Olympic sport, and in terms of

Page 1330

1 total potential also the highest level if you consider
 2 something like the Tour de France versus --
 3 Q. The Iron Man?
 4 A. -- the Iron Man, for example, to me those
 5 were completely different.
 6 Q. So what was the -- what was the result of --
 7 of your visit to the USOC training or try-outs and so
 8 forth? What happened there?
 9 A. Well in '89 I went to basically be seen and
 10 ride with the National Team, the Junior National Team,
 11 and I was asked to compete in the world championships
 12 which in that year were being held in Moscow. And at
 13 the time I was a 17-year-old kid, never been to Europe
 14 and certainly never been to communist Europe. I
 15 thought that was a pretty cool opportunity. So I
 16 jumped all over that and put triathlons on the side.
 17 Although I still continued to compete, my main focus
 18 was in cycling.
 19 Q. And how did you do at the Junior World
 20 Championships?
 21 A. Well, that would probably be in what J.T.
 22 referred to as the dumb category, because I had
 23 this -- still this individual mentality that goes
 24 along with triathlon and it was away all day in the
 25 race and was caught just a few miles before the finish

Page 1331

1 and didn't get a result. I mean, it was -- I was
 2 caught by the field. But, of course, the whole day I
 3 thought I was going to win easily, but that didn't
 4 happen.
 5 Q. Did you compete with the U.S. Junior team?
 6 A. Yes. That's the only way to compete. You're
 7 selected by the national team, you wear the jersey of
 8 the national team, what they call the stars and
 9 stripes, and that's -- I think we had maybe five or
 10 six guys on the team. I don't recall exactly.
 11 Q. There's been a suggestion that you were
 12 teammates with Greg Strunk at that time. Were you and
 13 Greg Strunk of the same vintage or not?
 14 A. No, not true.
 15 Q. Were you older or younger?
 16 A. Older.
 17 Q. Did you -- did you ride or compete in the '92
 18 Olympic -- summer Olympic games?
 19 A. Yes.
 20 Q. And what were your results there?
 21 A. I don't remember the exact results. I think
 22 somewhere in the teens perhaps. Disappointing.
 23 Q. Tell us when and what motivated you to turn
 24 to professional cycling?
 25 A. Well, I had always -- the commitment had

Page 1332

1 always been made at the beginning -- at the end of '91
 2 to ride half of the year in '92 as an amateur in order
 3 to compete in the games. Again, things have changed a
 4 lot since then because in '92 the games were still for
 5 amateurs only, exclusively. So I rode until Barcelona
 6 and then literally turned pro the very next day and
 7 actually took a plane from Barcelona to San Sebastian
 8 to do my very first pro race the next weekend. So I
 9 really split the year of 1992 as an amateur and as a
 10 professional.
 11 Q. And did you affiliate yourself with a certain
 12 professional team in '92?
 13 A. There were -- we rode all year for the
 14 Motorola Cycling team.
 15 Q. But you competed as an amateur for half of
 16 the year and the second half as a -- after the games
 17 as a professional?
 18 A. Right, for Motorola.
 19 Q. But you were with Motorola the entire time?
 20 A. Yes.
 21 Q. Okay. How did you end up signing with
 22 Motorola?
 23 A. You know, like a lot of sports the coaches
 24 and directors have their eye on good young guys that
 25 are coming up through the ranks, the amateur ranks.

Page 1333

1 They've seen them at races. Here in the states we had
 2 a race, for example, the late '80s, early '90s there
 3 was the Tour DuPont. It was a mix of professionals
 4 and amateurs. I rode that race with professionals as
 5 well, so Jim Ochowicz who ran the Motorola team saw me
 6 there and approached us about having me come on the
 7 team.
 8 Q. Prior to the time you went with Motorola --
 9 and you went with Motorola when you were about 19 or
 10 20?
 11 A. 20.
 12 Q. -- had you made -- had you -- you had not
 13 been riding bicycles or doing triathlons for a living,
 14 I take it?
 15 A. I had or had not?
 16 Q. Had not -- you were still an amateur?
 17 A. Well, you still -- I was doing triathlons
 18 professionally so I was racing for prize money.
 19 Q. Okay. Tell us a little bit about -- and
 20 using the Motorola team as an example, let's try to
 21 give the panel an idea of who's involved on a
 22 professional cycling team, riders and support
 23 personnel and so forth. Could you just kind of go
 24 through using, say, the '92 Motorola team as an
 25 example or whatever other example you wish to use that

Page 1334

1 would illustrate who's involved, who is connected with
 2 you, who you work with every day on a daily basis
 3 while in the professional cycling business?
 4 A. Well, it's -- as I think you probably picked
 5 up during this stuff, cycling is a very old
 6 traditional sport, considering the Tour de France is
 7 100 years old or more. So there's a traditional way
 8 of running things and the young guys come in and they
 9 are exactly that, they are the new kid on the block
 10 and they're not given any power to make any decisions
 11 to lead the team every day, and I came in just as
 12 such.
 13 I mean, when I flew from Barcelona to San
 14 Sebastian, I came in wide eyed and with no
 15 preconceived notion about anything and I was just
 16 ready to do whatever the team asked me to do. I was
 17 grateful for the opportunity they gave me and, you
 18 know, whatever happened. Turns out I didn't -- I
 19 didn't fair so well that day.
 20 Q. Was it -- essentially it was like a rookie in
 21 any other professional sport? I mean, there's a
 22 pecking order?
 23 A. Well, I -- you know, I've never been a rookie
 24 in any other professional sport, so -- it's probably a
 25 little more extreme, because the sport is so old. I

Page 1335

1 mean, perhaps it's similar to, you know, an older
 2 American sport of baseball or something where -- there
 3 isn't hazing that goes on, but, I mean, the guys are
 4 treated as if they are young guys. I mean, there's --
 5 there's -- you know, you always hear jokes about the
 6 first year guys have to clean the shoes of the older
 7 guys. I never had to do that. Of course, it didn't
 8 help that I was almost winning world cup races in the
 9 second week of my career. But I was still -- I was
 10 still naive and I wanted to learn as much as I could
 11 and be respectful of the older guys.
 12 Q. So how many -- how many riders on -- on a
 13 typical professional cycling team?
 14 A. We possibly had 20 guys back then, maybe a
 15 few more. It's always in and around 20, 25.
 16 Q. Would all of the riders compete in every
 17 event?
 18 A. No. It's typically --
 19 Q. How would that work?
 20 A. Typically most races are eight or nine guys.
 21 And the coach or the director of the team will select
 22 who should ride those races based on the course, based
 23 on the rider's condition, based on illnesses and
 24 injuries, based on what country it's in.
 25 Q. Okay. So what other support staff would

Page 1336

1 you -- would you find on a professional cycling team?
 2 A. Well, you would have -- you would have
 3 obviously a director which is like a coach, head
 4 coach, you would have a team of mechanics, a team of
 5 massage therapists, the soigneurs, team doctors, there
 6 would be a team cook, there would be a team
 7 chiropractor. It's sort of endless. A lot depends on
 8 the budget of the team and the interest of the team.
 9 Q. And other support staff? I mean, do you have
 10 drivers?
 11 A. If you have a bus, you have a bus driver.
 12 Q. Okay.
 13 A. Which a lot of times is a soigneur, they
 14 double. Cycling teams are notoriously cheap about
 15 that.
 16 Q. Okay.
 17 A. If they can get two for one, they'll take it.
 18 Q. Well, how many -- how many would you say
 19 would be a good average number for a -- for a typical
 20 cycling -- professional cycling team?
 21 A. In total, probably an entire staff of 50 to
 22 60 on average.
 23 Q. And tell us approximately what the
 24 professional cycling season is, at least as you
 25 experienced it. When does -- when does the training

Page 1337

1 start, what kind of training, and what the race season
 2 is, so forth.
 3 A. Well, you know, contrary to what some may
 4 believe we took a real 12-month approach to the sport
 5 when we decided to really focus on it. And the racing
 6 season is February or March until September, October.
 7 But that doesn't mean that's all that you train. I
 8 mean, there's training that goes on Christmas Day,
 9 Thanksgiving Day, New Year's Eve, New Year's Day,
 10 so... I mean, but on the road probably nine or ten
 11 months a year.
 12 Q. You say training will go on on a -- on a
 13 daily basis. Can you give the panel an idea or an
 14 example of a typical training day for you? Let's say
 15 you're three or four months out from the -- from the
 16 Tour de France, let's say, it's April. Where would
 17 you be and what would be a typical day for you?
 18 A. Well, April is no longer a long time to go,
 19 April is crunch time. I always like to think that,
 20 you know, it -- on April 1st -- to me six weeks is
 21 always the barometer. So when I was six weeks out on
 22 the Tour, I thought, oh, no, nothing bad can happen.
 23 So in the middle of May I thought, okay,
 24 from now to the Tour nothing bad can happen. On
 25 April 1st I thought, well, we're six weeks away from

Page 1338

1 me saying I only have six weeks. So anything within
 2 April would have been serious training, everything
 3 around -- in and around that would have been very
 4 focused, diet, training, rest, recovery, lack of
 5 distraction, training rides on rest days would be two
 6 or three hours, but on long days seven or eight hours,
 7 easy.
 8 Q. So you would be on your bike seven or eight
 9 hours?
 10 A. Not every day, but on the -- on the hard
 11 days. And that's a -- that's a broad description.
 12 Q. Sure.
 13 A. I mean, you can get more detailed on the type
 14 of training that includes.
 15 Q. Sure.
 16 A. But you can start including the amount of
 17 elevation gain in the day, which would determine how
 18 hard that day was.
 19 Q. All right. Where would you -- let's say
 20 between -- after you were ill, let's say from '98 to
 21 2004, where did you live during, let's say, the first
 22 six months of the year?
 23 A. Of '98 or of --
 24 Q. No, just generally, between that -- in that
 25 time period, would you -- when would you go to Europe?

Page 1339

1 A. Well, all of those years I spent the off
2 seasons or the winters in Austin. Of course, mixing
3 in travel for sponsor obligations, charity
4 obligations, vacation, et cetera. But then in terms
5 of European residences, that -- there would only have
6 been one of two places in '98. From '98 until about
7 2001 I spent all of my time in Nice, France and then
8 past that or beyond that in Gerona, Spain --
9 Q. And where would you --
10 A. -- where I had houses.
11 Q. Your -- was the Spanish location -- was it in
12 relative proximity to the Pyrenees or -- or the
13 ability to train at altitude?
14 A. You could see the Pyrenees.
15 Q. Well, if you were training at altitude, where
16 would you -- where would you train?
17 A. Gerona is 500 feet, that is not at all
18 altitude. So if we were going to train at altitude,
19 which we did a lot, we would be forced to travel. The
20 predicament then comes if it's, for example, February
21 or March and you need altitude in Europe, just like
22 would be the problem here, there are not many places
23 to get that kind of altitude that time of year. In
24 Europe the only place we've had -- that I found is
25 in -- is in the Canary Islands on top of the volcano

Page 1340

1 on the Island of Tenerife.
2 Q. And did you train at altitude on Tenerife
3 from time to time?
4 A. Quite a lot, yes.
5 Q. You mentioned that -- that when you went to
6 work -- let me back up.
7 You turned pro in '92. And from -- at
8 least from what I've read there's a sizable turnover
9 from year to year with respect to support staff,
10 riders and that sort of thing in the professional
11 cycling area; is that a fair statement?
12 A. Yes. Cycling is a true free agent sport. If
13 your contract is up and you haven't performed your
14 duties, then the team probably won't keep you. If
15 you've done extremely well and another team wants you,
16 you are totally free to leave and you can take the
17 offer. There's no franchise players here. It's when
18 the deals done, you're gone.
19 Q. So over the past 14 years, more or less,
20 you've been, I take it, intimately associated with --
21 A. Not intimately.
22 Q. -- five, six, 700?
23 A. Well, I didn't mean that, but closely.
24 Q. Closely, there you go. Closely.
25 Closely associated with --

Page 1341

1 THE WITNESS: Don't get any ideas, Jeff.
2 MR. HERMAN: That's out of bounds on
3 cross examination.
4 MR. TILLOTSON: That's not in my outline.
5 MR. HERMAN: You used to hang out with
6 Wilt Chamberlain.
7 THE WITNESS: That shows you why you
8 should have fired that PI.
9 Q. (BY MR. HERMAN) Anyway, so over -- is it
10 fair to say that over the past 14 years you've had
11 five or 600 perhaps plus people just on your team that
12 have been associated with you on pretty much a daily
13 basis?
14 A. I don't -- yeah, I don't know the exact
15 number. It's a lot of guys and that's just
16 considering the people that are within your house,
17 your program. Obviously outside of that many times
18 you spend days and days and nights and nights in the
19 same motels with other teams, too, so you get to know
20 them almost like, you know, your own guys, but...
21 Q. Well, I was going to ask you to characterize
22 sort of the social culture of the professional cycling
23 tour. There are what, 20 teams more or less; would
24 that be a fair --
25 A. 20 high level teams, yeah. Now we have the

Page 1342

1 pro tour of 20 teams.
2 Q. And spouses, children, so forth. Tell us
3 what sort of -- what the social atmosphere or culture
4 is there with respect to getting to know people
5 closely and that sort of thing?
6 A. Well, that does happen. Spouses and children
7 you don't see a lot, because the sport is so
8 traditional. I mean, a wife comes around and thinks
9 she's going to come hang out at the Tour de France for
10 a couple of weeks it doesn't happen, unless it was my
11 wife or my girlfriend I guess it happened, but a young
12 guy that would never happen. We were different in
13 that we were Americans so we had a slightly different
14 approach to the -- this old world sport. The team was
15 American sponsored, American -- riders were mostly
16 American. We were a little bit different like that.
17 But, I mean, you get -- you definitely get to know,
18 not just the riders but you get to know the other
19 people on the team, the staff and the fans and so on.
20 Q. You mentioned pecking order. How did you
21 find yourself moving up the pecking order, let's say,
22 in the first two or three years you were with
23 Motorola?
24 A. Well, in a -- I talked about this first world
25 cup race in San Sebastian and I actually had a big

Page 1343

1 ambition. I thought I was going to do great, thought
 2 I was well prepared, I thought I had a bad race in the
 3 Barcelona games. I was wrong. I finished last that
 4 day in San Sebastian, about 30 minutes behind the
 5 winner, but about 100 guys quit the race. I had this
 6 idea that I wasn't going quit my first pro race. I
 7 didn't want to have -- I was very close to my mom at
 8 the time and I didn't want to have to call her because
 9 I knew she would want to know -- I didn't want to call
 10 her after the race and say I just -- I quit -- I quit
 11 my first race. So I finished and finished way behind
 12 and thought maybe I should be doing something else.
 13 Maybe I should be going to the University of Texas and
 14 studying. This is not for me. But I hung on for a
 15 couple more weeks and the next race that I did -- the
 16 next big race was a world cup race, just like this
 17 one; it was in Zurich, and I finished second; just
 18 barely lost. And I thought well, maybe that's --
 19 maybe I should stick around a little bit longer. And
 20 then finished out the rest of 1992, which led into
 21 '93, which was a surprising year for me.
 22 Q. All right. So the -- what did your -- what
 23 did your success or the success of any young rider
 24 have to do with where he found himself in the pecking
 25 order on the team, at least on your team?

Page 1344

1 A. Typically you wouldn't -- typically a young
 2 rider wouldn't come in and get second in a world cup
 3 race in the second week, so he would be relegated to a
 4 worker status for a year or two years, maybe five, six
 5 years. I don't know. But quickly thereafter, I mean,
 6 I was -- I was -- I was a designated rider, I was a
 7 protected rider, I was one that was looked upon to try
 8 and win races. The pressure -- of course, this is in
 9 '92 when I was just turning 21. That's a young age to
 10 have that kind of responsibility. When you have a big
 11 program, you have older, experienced riders working
 12 for you. I didn't expect that, but I was willing to
 13 do whatever the team needed.
 14 Q. In that connection you might, for those of us
 15 who don't really appreciate what -- that bicycling is
 16 a team sport, given the fact that you've won the Tour
 17 de France seven straight times, how would you describe
 18 the significance or importance of a team and that
 19 team's makeup, the various skills that are required,
 20 how important is that to -- to an individual rider's
 21 success?
 22 A. Well, without the team, you would not have
 23 success. I mean, you could field a mediocre team and
 24 be the best rider and most likely wouldn't win.
 25 There's been exceptions, but especially in the long

Page 1345

1 stage races you have to have eight or nine fully
 2 prepared strong guys. In cycling -- a lot of times I
 3 tell people that cycling is a perfect mix of a
 4 marathon, NASCAR, poker and football, because it
 5 includes all of those elements, to -- the phenomena of
 6 draft, and getting in line like NASCAR, the endurance
 7 of marathoning or the Iron Man, the ability to make
 8 tactical decisions and put on the poker face like you
 9 do in poker and the teamwork of football or
 10 traditional mainstream sport in America.
 11 Q. Let's just hypothetically say Lance Armstrong
 12 entered the Tour de France on his own, he's recognized
 13 as --
 14 A. All alone?
 15 Q. All alone.
 16 A. Oh.
 17 Q. He's the world's greatest bicycle rider,
 18 okay. What chance would you have to finish in the top
 19 50?
 20 A. Well, you can't enter the Tour de France
 21 alone.
 22 Q. But hypothetically, could you --
 23 A. No, don't ask me that question. I'm too
 24 confident to answer that one. You don't want to know
 25 the answer to that one. I will find something.

Page 1346

1 Q. After you blew the field away --
 2 A. No, first of all, you couldn't do it;
 3 secondly, it would be very similar. Think about it,
 4 if you've got one flat tire, you would be standing on
 5 the side of the road all alone with nobody to change
 6 your tire, so you would be hours behind.
 7 Q. Well, you've talked about professional
 8 cycling and, frankly -- I mean, not just in here but
 9 in the press, I mean, you've been called brash, you've
 10 been called direct, you've been called, you know,
 11 heartless, focused, et cetera. Tell us -- how do you
 12 feel about those characterizations of your
 13 personality?
 14 A. You know, we were competitive. We had one
 15 goal and one ambition and that was to win the greatest
 16 bike race in the world and not just win it once, but
 17 to keep winning it. And I suppose we could have been
 18 viewed as ruthless and evil and mean and cheaters and
 19 crooks and thieves and frauds, but we were not
 20 particularly remorseful to the people that came across
 21 us. We had this goal, this ambition, and we were
 22 asked to do that by our fans and by ourselves and by
 23 our sponsors and it was our responsibility to perform
 24 and do our job. And if there was a rider on the team
 25 that wasn't living up to expectations and was flat out

Page 1347

1 denying those or denying his responsibilities, he
 2 wasn't asked to come back.
 3 Q. Well --
 4 A. And if there were rivals who were threats,
 5 then we had to treat them as such. That's the case of
 6 big time sport. I think we all -- as sports teams we
 7 all see that as no longer a procedure.
 8 Q. Is it -- I guess, more directly is it true
 9 that, for example, even if you were a close personal
 10 friend of one of your teammates and that teammate had
 11 not pulled his share of the load or had not performed,
 12 were you hesitant to get somebody on your professional
 13 cycling team that would?
 14 A. Well, fortunately most of the times the
 15 people that I was really close to on the team actually
 16 did a better job than they were expected to do, so
 17 they were -- most of them were hired away by other
 18 teams. We were limited in our budget with what we
 19 could do. They were offered twice the amount of money
 20 to go somewhere else so the decision as friends was
 21 made relatively easy. Certainly there are people that
 22 come along on the team that you become friends with
 23 that just don't stack up and their contract is not
 24 renewed. But that shouldn't be viewed as -- this is
 25 not -- as much as I like running a charity and having

Page 1348

1 a charity, professional cycling when you're trying to
 2 win the Tour de France is not a charity. I mean, it's
 3 a business and it has to be viewed as such and the
 4 line between the two has to be very clear.
 5 Q. You mentioned -- before I sort of digressed,
 6 you had mentioned 1993 that you had a good year?
 7 A. Uh-huh.
 8 Q. You were with Motorola then, correct?
 9 A. Yes.
 10 Q. Tell us what you mean by having a good year
 11 in '93.
 12 A. A good year in that I started winning races
 13 early on in the season of '93. I won what was known
 14 at that time as the triple crown in America, I race --
 15 one race in Pittsburgh, a state race in West Virginia
 16 and the national championships in Philadelphia, which
 17 added up to a million dollar bonus. I won a stage in
 18 the Tour de France at 21 years old, so I suppose the
 19 youngest stage winner ever. Won the world
 20 championships in late August, early September of that
 21 year, which I suppose also one of the youngest world
 22 champions ever, beating Miguel Indurain who was
 23 second, Olaf Ludwig who was third. Miguel Indurain
 24 who had just won his third Tour of five.
 25 Q. His third Tour de France of five?

Page 1349

1 A. His third -- I'm almost sure. I don't know
 2 when he started winning, but he won five and I think
 3 he started in '91.
 4 Q. You mentioned this triple crown race in
 5 Pittsburgh, West Virginia and Philadelphia. How many
 6 teams would have been competing in those races?
 7 A. Probably 20 -- I mean, 15 to 20 teams. The
 8 American races traditionally would have, I suppose, a
 9 few less teams that are a mix of composite teams of
 10 smaller teams put together to make up a bigger team,
 11 but roughly 15 to 20.
 12 Q. You won the Pittsburgh race, correct?
 13 A. Correct.
 14 Q. You mentioned a million dollar bonus. Did
 15 that go to Lance Armstrong, if you were the winner of
 16 the three races?
 17 A. No.
 18 Q. How --
 19 A. Nothing inside -- prize money in cycling
 20 doesn't go to any one particular person. It goes to
 21 the team, always. Tradition -- again, going back to
 22 this traditional thing, tradition dictates that prize
 23 money is split amongst the team and the staff for the
 24 team. So even, for example, if I won the Tour de
 25 France and it's a \$500,000 prize, the winner donates

Page 1350

1 his prize to the rest of the team, the riders split up
 2 the money and the staff splits up the money. In this
 3 case with the million dollar prize it was split
 4 amongst the riders and the staff.
 5 Q. And who determined -- let's say in the case
 6 of the 1993 bonus, who determined how the bonus was
 7 split up?
 8 A. Jim Ochowicz, who was the director of the
 9 team, the coach of the team.
 10 Q. So would Ochowicz have received the million
 11 dollars and then split it up how he saw fit?
 12 A. Right.
 13 Q. Did you have anything to do with the
 14 decision -- other than being a team member, did you
 15 dictate how the money should have been split up?
 16 A. Absolutely not.
 17 Q. It's been suggested -- well, strike that.
 18 You win in Pittsburgh and how long is the
 19 stage race in West Virginia?
 20 A. Five or six days.
 21 Q. It's been -- did you lead the whole way there
 22 in West Virginia, or when did you go into the lead, if
 23 you can recall?
 24 A. Not from the beginning. Typically you would
 25 have a couple of flat days in the beginning, that's

Page 1351

1 when the sprinters run. They would have the jersey,
 2 but I didn't lead from the beginning.
 3 Q. It's been suggested that the Motorola team
 4 paid \$50,000 to the Coors Light team to, quote, fix
 5 the race. Did that happen?
 6 A. Of course not.
 7 Q. Do you know who Lynn Petijohn is?
 8 A. Yes, I do.
 9 Q. Who is he?
 10 A. He would have been the coach -- the coach of
 11 the Coors Light team.
 12 Q. Okay. While you weren't, obviously, on the
 13 Coors Light team, has, in your experience, the receipt
 14 of any prize money always been the responsibility --
 15 the receipt and distribution of the prize money been
 16 the responsibility of the team director?
 17 A. Yes.
 18 Q. In any event, let's say -- when did you move
 19 into the lead of the West Virginia race; do you
 20 recall?
 21 A. I don't -- I mean, it was somewhere perhaps
 22 in the middle of the race.
 23 Q. And were you ever seriously threatened that
 24 you can recall -- I know it's been a long time and a
 25 lot of wins ago, but do you recall any -- being

Page 1352

1 threatened or attacked seriously?
 2 ARBITRATOR LYON: We're talking about in
 3 the race?
 4 A. Yes. I was threatened or attacked. In
 5 cycling when we say attack, that means basically a
 6 surge or an effort to drop somebody or to get rid of
 7 somebody on a hill or a crosswind section. That would
 8 be called an attack. I say attack all the time,
 9 people say, oh, you got attacked? It's not that.
 10 It's a cycling term so -- of course, there's always
 11 the threat that you'll be attacked by the other teams,
 12 but we had a strong team, I felt very strong, and I
 13 thought we had the situation under control.
 14 Q. (BY MR. HERMAN) Now, you went on, then, to
 15 Pittsburgh after the West Virginia race?
 16 A. Uh-huh.
 17 Q. And how did you do there?
 18 A. No, Pittsburgh was first.
 19 Q. No. I mean, Philadelphia. I'm sorry,
 20 Philadelphia.
 21 A. Right.
 22 Q. How did you do there?
 23 A. Well, you had to win all three to win the
 24 million, so I won in Philly, too.
 25 Q. Well, yeah, I know you won, but did you --

Page 1353

1 how would you characterize your performance?
 2 A. A different style of race. A one-day race,
 3 very different than a five or a six-day race. Also
 4 circuit race, laps and laps and laps in the city. The
 5 hardest part being a trip every time up what they call
 6 the Manayunk Wall, which is an old hill down in
 7 Manayunk; it was a very steep. And a long race. The
 8 biggest concern for me that day was -- as a
 9 21-year-old, was that it was a 165 mile race -- 160
 10 miles. And, again, I had a great team, great plan,
 11 great set-up. And the last time up the wall I gave it
 12 everything I had and I rode away and held off the
 13 field of 150 guys until the finish.
 14 Q. Do you recall a rider for Coors Light, I
 15 think his name is Gaggioli or something to that
 16 effect?
 17 A. Yes.
 18 Q. What's his name?
 19 A. Roberto Gaggioli.
 20 Q. Okay. I can't believe I got that right.
 21 Do you recall Gaggioli attempting to
 22 attack you and drop you?
 23 A. I don't recall exactly. He was very strong
 24 in those years, still races to this day, believe it or
 25 not, but he, perhaps, was the last guy to stay on my

Page 1354

1 wheel up the wall. And, of course, the furor there is
 2 he's one of the fastest guys in the race so he stays
 3 there on my wheel. Then I lose in the sprint so I had
 4 to do everything I could to get rid of him.
 5 Q. It's been suggested that in '94 and '95, that
 6 Motorola, that is the company Motorola or your sponsor
 7 Motorola, was putting a lot of pressure on the team to
 8 get better and better results. What is -- what is
 9 your recollection about that?
 10 A. You know, I have to say it was one of the
 11 good things about that sponsorship, these guys did not
 12 put a lot of pressure on. I mean, they truly were
 13 American. They didn't -- if you lost, you know, Gila
 14 in April they didn't call us and say why did you lose?
 15 They didn't know what that was. They were a little
 16 bit out of touch, which is good and bad, but mostly
 17 when it came to stuff like that it was good because
 18 there was no pressure. They knew what the Tour de
 19 France was. They would have known what the National
 20 Championship was. They would have known what the
 21 Olympic Championships were, but there wasn't the
 22 pressure like you would have on the European teams.
 23 Q. Let me ask you, let's say in '95, what -- at
 24 what weight did you race, what body weight? Just say
 25 '95, '96, before you got sick.

Page 1355

1 A. Oh, high 70s, low 80s; that's kilos. I hate
 2 to say it, but when you're there all the scales and
 3 everything's in kilos.
 4 Q. So that's about 2.2 pounds per kilo?
 5 A. Times, yes.
 6 Q. Now, in -- were you -- did you feel --
 7 A. I was not particularly disciplined when it
 8 came to diet back then.
 9 Q. In 1995, during the season, did you engage in
 10 any -- well, let me just ask you this, first of all,
 11 have you ever engaged in any performance enhancing,
 12 any prohibited substance?
 13 A. No, never.
 14 Q. Ever?
 15 A. Ever.
 16 Q. It's been suggested that individually certain
 17 members of the Motorola team began such a program in
 18 1995.
 19 A. Uh-huh.
 20 Q. Do you have any knowledge about that at all?
 21 A. Well, only based on what I've heard
 22 through -- through situations like this or cases like
 23 this. You know, if you say individually, you know, I
 24 don't know if somebody individually beats their wife.
 25 I don't know if somebody individually takes EPO. I

Page 1356

1 don't know. I can speak for myself and tell you that
 2 that never -- on both counts. I would never beat my
 3 wife and I never took performance enhancing drugs.
 4 But what riders do at home and in the privacy and
 5 comfort of their own home I can't comment on.
 6 Q. During 1995, during the 1995 season, were you
 7 aware that Stephen Swart has said that he got started
 8 on them -- on an EPO program?
 9 A. I'm aware of that, because of this
 10 proceeding.
 11 Q. And you're aware that --
 12 A. And because of the book.
 13 Q. Because of LA Confidential?
 14 A. (Nods head).
 15 Q. And you're aware that Mr. Swart said it
 16 messed him up and -- the EPO regimen made him a much
 17 worse rider than -- than he was before that; are you
 18 aware of that?
 19 A. I read that, yeah.
 20 Q. Well, I guess that the basic question is, did
 21 you -- did you begin an EPO program in 1995?
 22 A. The answer is no.
 23 Q. And do you recall approving the institution
 24 of any EPO program for the team in 1995?
 25 A. That wouldn't have been my place or my

Page 1357

1 position to do that. I'm not the team coach, the team
 2 director, I'm not the team doctor, I'm not the team's
 3 lawyer, I'm not the team pharmacist. I never could
 4 have done that.
 5 Q. The team doctor was Dr. Testa in '95?
 6 A. Correct.
 7 Q. And did -- did Dr. Testa ever advocate or
 8 institute, to your knowledge, any program involving
 9 prohibitive substances?
 10 A. No.
 11 Q. Let's go to '96 here. You -- you're riding
 12 for Motorola still?
 13 A. Correct.
 14 Q. Tell us how you did that season and when,
 15 basically, the season concluded?
 16 A. Again, Olympic year, started the season
 17 pretty good. I was second in Paris-Nice, I won Fleche
 18 Wallonne, which is another big one-day contest; second
 19 in the Liege-Bastogne-Liege another one of the
 20 monuments of cycling; won the Tour DuPont in the U.S.;
 21 went back to Europe for Grand Prix Switzerland and the
 22 Tour de France; didn't ever really find my form or
 23 feel right, came home and prepared for the games here,
 24 since the games were in Atlanta, and -- and fared
 25 moderately well in Atlanta but still not feeling like

Page 1358

1 everything was going well.
 2 Q. And '96, of course, was the season that you
 3 got sick or the year that you got sick?
 4 A. Right. Well not long after the games, a few
 5 weeks after.
 6 Q. Oh, you know -- you know the exact date that
 7 you were diagnosed?
 8 A. October 2nd.
 9 Q. '96?
 10 A. 1996.
 11 Q. Tell us briefly the treatment you received in
 12 Austin. We know you went to Indianapolis at some
 13 point. Tell us -- you don't need to give any of the
 14 gory details necessarily, but just tell us generally
 15 your diagnosis and then the treatment that you
 16 received in Austin.
 17 A. Well, diagnosed in Austin, initially operated
 18 on in Austin the very next day, to remove the
 19 cancerous testicle, began chemotherapy in Austin a few
 20 days later, all the while searching, scouring books,
 21 Internet, friends, family, sources for the best
 22 treatment options I could potentially find, which led
 23 us to Indiana or to Indianapolis University where we
 24 made a trip up there, met with the doctors, discussed
 25 my situation and asked them their opinion ultimately

Page 1359

1 looking for the silver bullet, which nobody has.
2 But they have a good approach and they
3 had a great attitude, so we never left. We stayed in
4 Indiana for the subsequent surgeries and for the
5 remainder of chemotherapy.
6 Q. When you say we, who are you referring to?
7 A. The initial trip?
8 Q. Right. When you say, we stayed in
9 Indianapolis.
10 A. Well the initial trip was myself, Bart Knaggs
11 and my mom, and the other times that I was there for
12 treatment, because I was treated as an inpatient,
13 there was a constant flow of friends and family.
14 Q. I don't have the -- I don't have the precise
15 timeline in front of me, but assuming -- assume with
16 me that you checked in the hospital more or less
17 October 18th, that is Indianapolis Hospital. And you
18 had your brain surgery on Thursday, October 24.
19 What -- would you have undergone a -- tests and
20 observation and so forth up until the 24th?
21 A. Right.
22 Q. Who performed your brain surgery?
23 A. Scott Shapiro.
24 Q. And tell us what role -- we have heard the
25 names Dr. Nichols and Dr. Einhorn. Tell the panel

Page 1360

1 what roles they played in your treatment.
2 A. Well, Dr. Einhorn is the -- is the head of
3 the oncology unit there. He's arguably one the most
4 legendary oncologists in the history of oncology. He
5 invented the cure for testicular cancer with platinum
6 based work, he was the president of ASCO for a year,
7 which is a very prestigious position. He also is a
8 lung cancer specialist.
9 But because of all of this and because of
10 his prestige he travels a lot. So to say that he was
11 my day-to-day oncologist wouldn't be fair. That's
12 where Dr. Nichols comes in. Dr. Nichols was his --
13 you know, his apprentice. He was the one who was
14 basically overseeing the department while Dr. Nichols
15 was out lecturing and speaking and traveling. So I
16 became very close to Dr. Nichols and viewed him as my
17 main oncologist and he was the one who oversaw all the
18 drug treatments and monitored all of the blood work,
19 monitored all of the chest x-rays. He was my
20 oncologist.
21 Q. There's been at least some implicit
22 suggestion that you made a contribution to the -- to
23 the teaching hospital at Indiana University for some
24 nefarious reason. Can you describe to the panel how
25 you came to endow the chair for either Dr. Einhorn or

Page 1361

1 Dr. Nichols?
2 A. It was through Dr. Einhorn. I -- I haven't
3 endowed Dr. Nichols, chair but I certainly plan on it.
4 Dr. Einhorn was -- Indiana University had been looking
5 for a person to underwrite the chair for some time and
6 I was, quite frankly, blown away with that of all the
7 years of treating young men with testicular cancer
8 none of them had come along and supported this chair
9 and funded it. And it was a million and a half
10 dollars and I understand that's a lot of money. But
11 to suggest that I funded that chair to get an
12 affidavit or to get some clean medical records or some
13 sanitized records is completely ridiculous.
14 This is a man that saved my life. Not
15 just my life, but this is a man that saved tens if not
16 hundreds of thousands of lives, not just in Indiana,
17 not just in America, all over the world. If somebody
18 gets testicular cancer advanced in Tokyo, they call
19 one man, Larry Einhorn. If somebody gets it in
20 Sydney, they call one man, Larry Einhorn. He's a
21 legend. And to think he's going to take a million and
22 a half dollars and sign an affidavit when he's done
23 all of these great things in his life is -- is
24 preposterous.
25 Q. Well, how long had that been in the works? I

Page 1362

1 mean, the whole --
2 A. Well, they had been looking for --
3 Q. -- process?
4 A. They had been looking for the -- for the
5 funds for a while. They had -- I mean, a million and
6 a half dollars is a lot of money, so I had to figure
7 out how I was going to exactly allocate that, and
8 nobody ever funded it and he deserves it and there
9 should be no -- no doubt in and around that.
10 Q. Would there have been any significant medical
11 history taken or any significant step in your
12 treatment undertaken without the presence of one or
13 the other or both perhaps, Doctors Einhorn and
14 Nichols, while you were at -- while you were in
15 treatment up there?
16 A. No.
17 Q. Now, I understand that you -- do you need
18 some water?
19 A. I got some.
20 Q. Okay. I understand you don't have a
21 photographic recollection of every day you were in the
22 Indianapolis Hospital, but you're aware that some
23 people have come forward and said that you admitted to
24 the use of performance enhancing substances sometime
25 in '96; you're aware of that are you not?

Page 1363

1 A. Because of -- yeah.

2 Q. Okay.

3 A. I'm aware.

4 MR. HERMAN: Your Honor, I know that we

5 are not on strict evidentiary rules here, but I just

6 wanted the panel to know that I'm getting into this

7 because it's been raised. We don't believe, as we

8 have said before, that it has any relevance to the

9 issue of whether the contract requires payment on

10 becoming the official winner, so I don't want to waive

11 any position by going into this issue. But

12 nonetheless, I hope I can get -- at least I'm stating

13 that for the record anyway. I'm going to ask him

14 about this alleged incident, but I don't intend that

15 and I hope it's not taken -- I'm asking it not be

16 taken as a waiver of our clear position that the

17 unambiguous contract governs the resolution of the

18 case or this issue.

19 MR. TILLOTSON: I certainly agree that

20 any testimony you elicit is not waiving any negative

21 arguments you've made in this proceeding.

22 ARBITRATOR FAULKNER: Okay. Proceed,

23 please.

24 MR. TILLOTSON: We won't argue that, of

25 course.

Page 1364

1 MR. HERMAN: Thank you.

2 Q. (BY MR. HERMAN) Let's just assume, let's go

3 back, let's say you had your brain surgery on Thursday

4 the 24th. Do you recall trying to go to a Pacers game

5 on Saturday the 26th?

6 A. Well, yeah, we -- the remarkable thing for me

7 was that I was allowed to at least -- or even go out

8 to dinner two nights after brain surgery. So we did

9 go to dinner with the plans to go to the Pacers game,

10 but I fainted during dinner and never made it to the

11 Pacers game. But still I made it out. I thought that

12 was pretty -- pretty admirable.

13 Q. Who was with you, if anyone was with you, the

14 entire time, let's say between the 18th or whenever

15 you checked in and -- and for the next couple of

16 weeks, who -- who was with you all the time?

17 A. All the time was my mother -- I say all the

18 time. You know, 90 percent of the time, my mother,

19 Jim Ochowicz and Bill Stapleton.

20 Q. Let me direct your attention to Sunday,

21 the 27th. Now, until this case arose -- well, strike

22 that.

23 Have you been able to recreate the sort

24 of environment and surroundings and events of Sunday

25 the 27th of October?

Page 1365

1 A. Well, we would have -- I know we were

2 watching a Cowboy game. I know there was enough

3 people there that they would have not fit in my

4 hospital room. For those of us who are Cowboys fans

5 this is the mid '90s so they were still watchable.

6 And so it was a big deal. I mean, this was just a

7 year or two --

8 ARBITRATOR LYON: I feel your pain.

9 A. I mean, you know, I'm a fair weather fan I

10 have to admit. So, you know, it was -- it was -- I

11 mean, Sundays revolved around the Cowboys. And so

12 Bill found us a room and we went in and watched the

13 game. It's as simple as that. We wouldn't have fit

14 in the room otherwise.

15 Q. And can you tell the panel who was -- well,

16 strike that.

17 It's been suggested that the Andreus were

18 there, the Carmichaels, Lisa Shiels and Stephanie

19 McIlvain were there.

20 A. Uh-huh.

21 Q. Who else was there besides those people?

22 A. Well. Bill obviously arranged the room. He

23 would have been there. Jim Ochowicz was there 100

24 percent of the time, so he would have had to have been

25 there and my mother was there.

Page 1366

1 Q. Your mother is a -- from Dallas -- I mean,

2 you grew up -- you and your mother basically grew up

3 together as a -- she was a single parent for the most

4 part, as I recall?

5 A. For the most part, yes.

6 Q. Cowboy fan?

7 A. Huh?

8 Q. Your mother, a Cowboy fan as well?

9 A. Yeah.

10 Q. Anyway.

11 A. She was a Troy Aikman fan.

12 Q. You've heard that -- it alleged that somebody

13 came in to take a medical history or something --

14 A. Uh-huh.

15 Q. -- on that Sunday while you all were in this

16 big room. It wasn't a hospital room I take it. It

17 was a suite or a -- some sort of a lounge or

18 something?

19 A. Conversation room or something.

20 Q. Did that happen?

21 A. That we were in the room?

22 Q. No, no, I'm sorry.

23 A. We were in the room. I don't recall anybody

24 coming in to take medical records, nor do I

25 understand -- a couple of things, why they would have

Page 1367

1 come in three days after brain surgery when they
 2 clearly would have taken medical records before, why
 3 they would have come in and asked those questions in
 4 front of your friends, specifically your mother,
 5 during a Cowboys game, and why I would have answered
 6 I've taken this, this, this and this when I've never
 7 taken performance enhancing drugs. So when I put
 8 those together, I try to understand why that happened
 9 and I don't understand that.
 10 Q. Mr. Stapleton, your mother, Ms. Shiels, they
 11 were all there -- and Mr. Ochowicz as well?
 12 A. Yes.
 13 Q. When you came back after being ill, you came
 14 back in 1998 sometime?
 15 A. In the spring -- early spring of '98, to
 16 racing.
 17 Q. And tell us how, if at all, you had changed
 18 physically, mentally, perhaps emotionally, whatever?
 19 A. Physically the illness changed me, it changed
 20 my body type. I mean, many people remark when you
 21 look at pictures from '96 before the diagnosis to the
 22 first races of '98, that's a different athlete. I was
 23 off the bike for a long time and whatever muscle was
 24 there before was gone, and when I came back I -- as I
 25 said earlier, I didn't have true discipline when it

Page 1368

1 came to the dinner table and I realized that the --
 2 that this was my second chance on life or my second
 3 chance on my career, so I tried to focus on every
 4 little thing about it, and that led to a lighter frame
 5 and one that you would clearly see in pictures. But
 6 it was just an overall focus -- intensified focus on
 7 cycling and on my sport and on life, some would say --
 8 call it perspective.
 9 Q. Let me -- let me ask you this and I know that
 10 Dr. Coyle will probably address this in his testimony,
 11 but what effect did -- well, first of all, tell us
 12 what your racing weight was in -- let's say 1998, 1999
 13 versus the 1996 body that you -- that you used?
 14 A. I used. It would have gone from the low 80s
 15 to in the Tour de France in 1999 to 72 and a half to
 16 73 kilos, so close to 20 pounds less.
 17 Q. What -- assume with me -- and again,
 18 Dr. Coyle will -- well, let me just pose to you a --
 19 how do you measure the power -- in what units do you
 20 measure power in your sport?
 21 A. Well, you can guess, which a lot of people do
 22 or you can use an instrument, what we call an SRM,
 23 which is a handle bar mounted almost like a bike
 24 computer like a speedometer, which also does include
 25 speed and a crank that calculates through some

Page 1369

1 formula, some math, power output.
 2 Q. We will get back to that, but did you -- did
 3 you have a feeling for -- well, do you consider it an
 4 advantage to be carrying 20 pounds less weight on
 5 making altitude or making climbs and so forth --
 6 A. Yes.
 7 Q. -- versus --
 8 A. That would be the most important thing you
 9 could do in cycling is lose weight.
 10 Q. So long as you maintain the power?
 11 A. Even if you lose some power, it's a question
 12 of power to weight.
 13 Q. Did you consider, at least from a physical
 14 point of view, that to be a -- a major improvement in
 15 your -- at least your -- your physical approach to
 16 cycling after you came back from being ill?
 17 A. Yeah, I considered that important.
 18 Q. Now, you won the 1999 Tour de France,
 19 correct?
 20 A. Correct.
 21 Q. It's been suggested that -- that you had a
 22 positive drug test for cortisone during the 1999 Tour
 23 de France. Explain to the panel what really happened.
 24 A. Well, what really happened is what the test
 25 indicates is that I was given a topical cream for what

Page 1370

1 we call a saddle sore, which is a -- I don't know how
 2 to describe a saddle sore, but it's common in cycling,
 3 if you sit on a bike all day long. A topical cream to
 4 alleviate that, to take the pain away, make it go
 5 away, and there were traces of cortisone found in the
 6 urine. Had that been a -- used for performance
 7 enhancing ways or means, you would have seen that in
 8 the test, but the test completely indicated topical
 9 cream.
 10 Q. And did the traces that showed up -- did they
 11 meet the threshold for a positive test in any event?
 12 A. No.
 13 Q. It's been suggested by some that you scurried
 14 around and got a post dated or predated prescription
 15 for your topical cream; is that true?
 16 A. Not -- no, not true.
 17 Q. Now, you mentioned earlier when we were
 18 talking that you had been closely associated with
 19 about probably five or 600 members of your teams over
 20 the years, and one presumably could multiply that
 21 times 20 to cover the other teams within your
 22 community. Why didn't you just bring five or 600
 23 people in here to testify about your integrity and so
 24 forth?
 25 A. Well, we certainly could have. And I suppose

1 it could have gone beyond the realm of sport, because
 2 you have to consider what a person does off the bike
 3 as well. So -- but that's -- to me that's really not
 4 the issue. The issue is what we saw in Mr. Hamman's
 5 e-mail the other day and that's if the titles are
 6 stripped, the money will be refunded and that's the
 7 reason we are here because the money won't be paid.
 8 And perhaps there's other reasons why it won't get
 9 paid. And we are here to talk about that and it's not
 10 our job to get up here and say that Lance is a great
 11 guy. Certainly we could do that, but that was your
 12 decision not to do that and I support that and I think
 13 that the contract supports that and I hope that the
 14 panel agrees with that.

15 Q. In '99, after -- I guess about halfway
 16 through the '99 Tour, they started -- the accusations
 17 against you started?

18 A. No, they started during the '99 Tour.

19 Q. That's what I mean.

20 A. Yeah.

21 Q. You hadn't even won your first Tour when they
 22 were accusing you, correct?

23 A. You know, this has been a long process for
 24 me. It's been -- I mean, we saw the headlines in
 25 Jeff's opening remarks, and those same headlines

1 your children. How many do you have?

2 A. I have three kids. I have twin four-year-old
 3 girls and a six-year-old boy. They can't go on the
 4 bike, the girls.

5 Q. The girls.

6 And --

7 A. I'm kidding.

8 Q. You've been -- you've been gone -- you've
 9 been in and out the last couple of days here during
 10 this hearing and so what have your duties been the
 11 last couple of days?

12 A. What have my what --

13 Q. What have your duties been the last couple of
 14 days?

15 A. As a father or as a witness?

16 Q. Yes. Well, you obviously haven't been
 17 performing your duties here, because you've been in
 18 and out, but --

19 A. And I'm not performing my duties as a father
 20 either. The kids are at home right now without their
 21 dad, so this is truly a pain in the neck.

22 Q. Okay.

23 A. But this is worth fighting for and I'll tell
 24 you what, when my kids are 20 and they say, dad, why
 25 weren't you there January 10th of 2006, well, because

1 appeared in 1999, there was constant concern and
 2 criticism and skepticism over my results for a couple
 3 reasons and a lot of them I completely understand and
 4 relate to. I came along in 1999 after 1998, which was
 5 probably the biggest drug scandal in the history of
 6 world sport. I came along as somebody who was
 7 supposed to dead 18 months ago. You put those two
 8 together. Competing in the hardest event in the
 9 world, it's logical that if he wins people are going
 10 to say, I don't believe it. Well, he not only won it
 11 once, he won it again and again and again, seven
 12 times. So obviously those questions and concerns have
 13 persisted. And I've learned and grown to deal with
 14 them and we have done what we could to try to fight
 15 them and combat them.

16 But at the end of the day -- literally at
 17 the end of the day I sleep like a baby and that's
 18 what's most important. And if my kid tomorrow said,
 19 dad, I want to be a biker, which I think is even more
 20 important, I would say, great, go for it. So how I
 21 could put my son into this completely dark, dirty
 22 underworld of deceit and deception and fraud would
 23 make no sense to me. I would never do that, but I
 24 would put him on the bike tomorrow.

25 Q. Speaking of that, tell us -- tell us about

1 this is worth fighting for.

2 Q. In 2000, you -- well, I didn't go through the
 3 move to the Postal Service and so forth, but -- and
 4 the addition of Mr. Bruyneel. Tell us the
 5 significance or importance, if you will, of
 6 Mr. Bruyneel and the makeup of your Postal Service
 7 team in your first Tour win?

8 A. Well, Johan we brought in the late '98,
 9 beginning of '99 and he was -- that was a watershed
 10 event for us. He was the one who came in and really
 11 gave us the plan and gave us the confidence that we
 12 can win the Tour de France. He told me in late '98,
 13 he said, you can win the Tour de France. I thought he
 14 was crazy, but we all put our faith in him and let him
 15 create a program for us as a team -- as a team that
 16 really wasn't very good. And sure enough that
 17 happened and we just kept continuing to roll this
 18 program out year after year.

19 Q. And did your team continue to get better and
 20 better both in terms of -- well, not both, but in
 21 terms of personnel and technology and equipment?

22 A. Everything improved. The budget improved, so
 23 naturally the level of riders improved, the level of
 24 equipment improved, our experience and our standards
 25 improved. I mean, the team really evolved from -- I

Page 1375

1 joke all the time, from the Bad News Bears into the
2 New York Yankees. I mean, we were -- if you saw this
3 team in 1998, it was sad. And to go to where it is
4 now arguably the best Tour de France team in history
5 some have said, that's quite an accomplishment in six
6 or seven years.
7 Q. At some point in your career -- I'll come
8 back to 2000 in a moment, but at some point in your
9 career, you began -- you began to focus on the Tour de
10 France and point toward the Tour de France. Tell the
11 panel why you did that and what effect it had in your
12 view on your ability to win the Tour de France?
13 A. Well, I -- I made that switch in 1999 because
14 Johan did come along and say that I could do that. He
15 gave me the confidence to do that. And I was in a
16 beautiful position of somebody who had survived cancer
17 and come back to a sport that really didn't want me
18 back. There was only one team -- I say I was on the
19 Bad News Bears, I was on the Bad News Bears for a
20 reason, that was the only team that would take me.
21 There were no takers in Europe. Everybody hung up the
22 phone, shut the door, made excuses, ran, and --
23 Q. Well, you had signed with -- or had agreed to
24 move from Motorola to the Cofidis team just before you
25 got sick, did you not?

Page 1376

1 A. Well, just before -- well, we were supposed
2 to start January 1 of 1997. They terminated that
3 contract during the illness.
4 Q. So they came to the U.S. and said uh-uh?
5 A. They came to Indianapolis. I didn't check --
6 I didn't look very good at the time, talked to Bill
7 and he said we need him to take a physical. That's
8 technically what they said.
9 Q. Well, so, how did you find yourself on the
10 Postal Service team in '98?
11 A. Well, as I said, we looked around, there
12 were -- there were no takers. That was the one team
13 that gave me a shot, and, you know, I had to go with
14 that. They were most likely going to be invited to
15 the Tour, but it also gave me the opportunity to live
16 with no expectations from a sporting perspective or a
17 personal perspective. No pressure based on what I had
18 done before in cycling. I didn't have to focus on
19 one-day races. I could completely change everything
20 and say, okay, nobody believes that I will do anything
21 ever again, why don't I just go ahead and try to win
22 the hardest event in the world.
23 Q. And then jumping forward, you -- you won in
24 '99, as we have talked about, and you won in 2000, did
25 you not?

Page 1377

1 A. The Tour de France?
2 Q. Yes.
3 A. Yes, I did.
4 Q. Okay. Now, after the -- or I suppose during
5 the 2000 Tour, you became aware at some point after
6 the Tour that a French television station had followed
7 the Postal Service rubbish car or something and dug
8 the garbage out of a garbage bin in France, correct?
9 A. Correct.
10 Q. Tell us about the French investigation, how
11 you found out about it, what occurred during the year
12 2000 and what sort of publicity surrounded that, you
13 being a two-time Tour de France winner and only the
14 second American ever to win.
15 A. Well, of course, it was very sensational at
16 the time that they -- that they took the video. The
17 video wasn't great apparently. I actually did not see
18 the video and I don't think they showed it anywhere
19 here in the states, but certainly the headlines were
20 everywhere. It was a true headache. What was
21 interesting about this investigation were a couple of
22 things. Is -- number one, while they did find sort of
23 wrappers and waste in that regard, the -- basically
24 the entire investigation centered in and around the
25 drug called Activogen, which was carried for one of

Page 1378

1 our staff members for whatever reason he needed it.
2 It's important to realize that when you
3 come to France for the Tour de France, you come for
4 three weeks, you are a rolling city. You have to
5 bring everything. You bring food, you bring medicine
6 for your athletes and the staff for whatever ailment
7 they may or may not have. Before you go you have to
8 submit the list to the French Minister of Health, I
9 suppose, of all the drugs you plan to bring into the
10 country. So if it's cortisone, it has to be on there,
11 Aspirin has to be on there, Activogen has to be on
12 there. They can approve or they can deny that.
13 Activogen, of course, was approved to
14 bring into the country. That's the reason it was
15 there for the staff member. They refused to
16 acknowledge that. It didn't matter that their
17 minister of health had stamped that approval. But
18 this was a mysterious thing for them. They thought
19 that this was some nefarious EPO substitute.
20 And that was the case. The federal
21 investigation was opened and any time a country opens
22 a federal investigation against an athlete, especially
23 one that just won a second Tour, it's huge news. And
24 it struck here or hit here on Thanksgiving Day of
25 2000.

Pages 1375 to 1378

Page 1379

1 Q. In what sort of media outlets during the last
 2 month and a half of 2000 was the -- was this pending
 3 investigation publicized?
 4 A. It was everywhere. It -- I mean, I was in --
 5 I was in Mexico on vacation and my phone was ringing
 6 off the hook. It was everywhere, internet, ESPN,
 7 newspapers. Everywhere.
 8 Q. CNN?
 9 A. CNN. You name it. And continued to be in
 10 the newspapers for 18 months
 11 Q. Well, I wanted to ask you about that, because
 12 I believe it was Mr. Compton that indicated that
 13 nothing ever came of the French investigation because
 14 you refused to go to France and make yourself
 15 available to the French judge or authorities or
 16 whatever. What's the story on that?
 17 A. That's simply not true. I was in France all
 18 the time. In fact, I lived in France. I owned a
 19 house in Nice. I lived in France. We held a press
 20 conference in Paris in the spring of 2001, I believe,
 21 and I unequivocally stated to the judge and wrote her
 22 a letter and said, I'm here for you whenever you need
 23 me. Call me. I'll show up. I'll appear. I'll
 24 answer whatever you need.
 25 I was never called. Technically the

Page 1380

1 investigation was against X, but we all knew that X
 2 was me and X was the team. They never -- they asked
 3 for one thing the entire time and that was that we
 4 release our blood samples that the UCI had frozen
 5 after the 2000 tour.
 6 Q. Blood or urine?
 7 A. Both, either one -- I don't know. But it
 8 required everybody's permission on the team and we
 9 immediately gave that permission.
 10 Q. Now, let me -- let me --
 11 A. Those were the samples that --
 12 Q. I'm sorry. Go ahead.
 13 A. Those were the samples that were too clean.
 14 Q. Now --
 15 A. So I've heard a few things in my career.
 16 I've heard that I'm too dirty, but I've also now heard
 17 that I'm too clean.
 18 Q. Well, let me -- let me back up a little bit.
 19 In SCA's pretrial brief they state there's no test to
 20 detect EPO in -- until 2001. And that's true, is it
 21 not?
 22 A. I'm not the scientist, but, you know, I think
 23 that when they seized the samples --
 24 Q. At least at the Tour de France?
 25 A. No, they would not have -- in the summer of

Page 1381

1 2000 I don't believe they tested for EPO in the Tour
 2 de France.
 3 Q. Okay.
 4 ARBITRATOR FAULKNER: Excuse me,
 5 gentlemen, I've just been asked to take a facilities
 6 break. It about 10 minutes of three, why don't we
 7 take a ten-minute break and let you try to resume at
 8 3:00 p.m.
 9 (Recess 2:48 p.m. to 3:06 p.m.)
 10 ARBITRATOR FAULKNER: Noting that it's a
 11 little after 3:00 have you all made any further
 12 progress?
 13 MR. HERMAN: I would say we have, we are
 14 not there yet. We are looking at a draft of an
 15 agreement that we are working and --
 16 ARBITRATOR FAULKNER: Keep working on it,
 17 fellows. We'll rule whenever y'all tell us you can't.
 18 MR. TILLOTSON: The primary issue, I
 19 think, with respect to scheduling would be regarding
 20 Mr. Walsh.
 21 ARBITRATOR FAULKNER: Okay.
 22 MR. TILLOTSON: And we can address that
 23 at the conclusion of the testimony today briefly or we
 24 can address it now.
 25 Mr. Walsh is here. There are legal

Page 1382

1 proceedings that will happen tomorrow in the UK which
 2 may moot their request because the UK proceeding may
 3 say that the documents are allowed to be used by these
 4 lawyers in this proceeding.
 5 ARBITRATOR FAULKNER: Okay.
 6 MR. TILLOTSON: Which would moot
 7 Mr. Walsh's objection, because they get them and his
 8 only objection is that legal proceeding.
 9 ARBITRATOR FAULKNER: Since they're six
 10 hours ahead of us we will know, then, probably
 11 sometime in the morning?
 12 MR. TILLOTSON: I believe the hearing is
 13 in the morning. I'll check and see.
 14 MR. HERMAN: Somebody told me that
 15 whatever hearing they've got -- which I'm --
 16 MR. TILLOTSON: 11:00.
 17 MR. HERMAN: I think, yeah -- it's 11:00
 18 I think, so it will be 5:00 our time, so we'll know
 19 something.
 20 ARBITRATOR FAULKNER: Don't call us at
 21 5:00 tomorrow.
 22 MR. HERMAN: I don't expect to be called
 23 then either.
 24 ARBITRATOR FAULKNER: That's fine. You
 25 can let us know more about that tomorrow.

Page 1383

1 Okay. Why don't you go ahead and resume
 2 with Mr. Armstrong.
 3 MR. HERMAN: Thank you, Your Honor.
 4 Q. (BY MR. HERMAN) Mr. Armstrong, we talked --
 5 we were talking before we went off the record about
 6 the unavailability of a test for EPO detection until
 7 2001. After the 2000 tour you had mentioned that this
 8 investigation began in -- sometime prior to
 9 Thanksgiving and you all were informed of it as of
 10 Thanksgiving. Was anyone ever -- anyone on the Postal
 11 team or the Postal team ever charged with anything in
 12 France?
 13 A. No.
 14 Q. You had mentioned that the members of the
 15 Postal team were asked to consent to the release of
 16 whatever specimens or samples that you had given in
 17 connection with the Tour de France drug control
 18 program?
 19 A. Uh-huh.
 20 Q. Were you obligated to agree to the release?
 21 A. Well, they were in the possession of UCI in
 22 Switzerland, so I suppose we could have -- we could
 23 have said no. We didn't feel there was any need to
 24 say no.
 25 Q. Were any other competitors, other than the

Page 1384

1 U.S. Postal Service team, were they asked to release
 2 their samples for testing?
 3 A. No, no other teams.
 4 Q. And this new test, this new EPO test, your
 5 samples were submitted and tested in connection with
 6 the new EPO test; is that right?
 7 A. Correct. I think they actually -- I think
 8 they -- I'm not exactly sure, but I think they
 9 designated three scientists or three doctors to review
 10 them.
 11 Q. Okay. And were they -- were there any
 12 adverse results. I mean, by that were there any
 13 positives on any of the Postal Service team?
 14 A. No. Too clean is adverse, but...
 15 Q. Other than being too clean or too clear or
 16 whatever, there were no other complaints of how -- the
 17 samples --
 18 A. No.
 19 Q. -- correct?
 20 It was suggested, I think, as I -- as we
 21 took -- talked about before, by Mr. Compton or perhaps
 22 Mr. Hamman that the reason that the French
 23 investigation didn't result in charges or imprisonment
 24 or whatever, was that you and your team failed or
 25 refused to cooperate with the investigation, correct?

Page 1385

1 Do you remember that?
 2 Or I've told you about that --
 3 A. You told me that, yeah.
 4 Q. Okay. Do you have before you Claimant's
 5 Exhibit 120?
 6 A. Yes.
 7 Q. Now, were you -- apparently you were in Paris
 8 at the time this statement was issued?
 9 A. This -- yeah. I read this in Paris.
 10 Q. And that would have been six months, more or
 11 less, after you had been informed of this pending
 12 investigation?
 13 A. Correct.
 14 Q. Just for the -- for the record, do you see
 15 that middle paragraph that says first?
 16 A. Uh-huh.
 17 Q. Why don't you just read that. You don't need
 18 to read the whole exhibit but that middle paragraph.
 19 A. First, I would like to address this -- the
 20 issue of the ongoing investigation.
 21 Q. Hang on. One second there. This lovely lady
 22 is taking down what you're saying and she can't take
 23 it down if you say it quite that fast.
 24 A. Okay.
 25 First, I would like to address the issue

Page 1386

1 of the ongoing investigation. I must reemphasize that
 2 I have, from day one, supported and encouraged this
 3 investigation. Any allegation of doping should be
 4 studied in detail. I believe that a capable and
 5 diligent judge has carried out this investigation and
 6 that I have been treated fairly in the process. I've
 7 made myself or any member of the U.S. Postal Service
 8 team available to Judge Chateau at any time in France
 9 to answer any question she might have. I reaffirm
 10 that commitment today. It is my opinion that this
 11 process has been carried out with integrity and I'm
 12 confident that I will -- I will remain -- that will
 13 remain as the case winds down in the very near future.
 14 Also, I would also like to reaffirm that
 15 I and my team have willingly cooperated in this
 16 process and have supported the immediate release of
 17 our frozen blood samples from the UCI Headquarters in
 18 Lausanne. Mr. Hein Verbruggen, president of the UCI,
 19 reports to me that the transfer is now complete.
 20 Q. Now, at that point, as of April 9, 2001, you
 21 hadn't received the results of your blood and urine
 22 samples, correct?
 23 A. They -- they -- they appear in the third
 24 paragraph says I'm happy to report that the urine
 25 samples have been confirmed negative.

Page 1387

1 Q. Oh, and then -- and you were referring to the
2 transfer of the blood samples as well?
3 A. Yes.
4 Q. And after complaints here about the urine
5 samples being too clear, did the blood samples
6 reveal --
7 A. I think they took the urine samples probably,
8 I don't know from the lab or from the UCI earlier on,
9 those were, quote, unquote, too clean so then they
10 wanted more, then they asked for the blood samples
11 which we also agreed to give out.
12 Q. All right. And did the blood samples result
13 in any adverse result or positive --
14 A. No.
15 Q. Tell us the first time that you can recall
16 that you were aware of the existence of a company
17 called SCA Promotions, Inc.
18 A. 2004.
19 Q. Well, they had paid in 2002 and 2003?
20 A. Uh-huh.
21 Q. How were you not aware of that?
22 A. Because I'm paid by the team. I don't know
23 who paid the team, but I was paid by the team.
24 Q. So in evidence here are checks made payable
25 to Tailwind Sports Corp. for the 2002 and 2003

Page 1388

1 insurance proceeds, but those -- but whatever Tailwind
2 did with the money it was Tailwind that paid you the
3 money; is that right?
4 A. Correct.
5 Q. When you made any statement regarding
6 accusations against you, did you have in mind
7 influencing a -- the decision of any insurance
8 company?
9 A. Of course not. Most of the time they were
10 in -- or almost all of the time they were in response
11 to a question or accusation such as this, not meant to
12 influence anybody.
13 Q. Would there be any reason for you to
14 independently do anything but respond to accusations
15 or requests for information?
16 A. Of course not.
17 Q. To your knowledge, has -- prior to January
18 the 9th, 2001, were you ever requested by SCA or CHUBB
19 or Lloyds or any other insurance company to provide
20 information or fill out an application in connection
21 with securing an insurance policy?
22 A. Not to my recollection.
23 Q. In 2001, you won the Tour de France again,
24 correct?
25 A. Uh-huh.

Page 1389

1 Q. Tell us what was the volume -- the -- the --
2 the number and the sort of intensity of these
3 accusations against you? Was it -- was the volume
4 being turned up?
5 A. The volume -- it was high -- from the very
6 beginning it was high in -- in 2000, it was high --
7 even higher in 2001 because of the ongoing
8 investigation. I mean, you witnessed that in the
9 press on the side of the road, et cetera, et cetera.
10 It was heightened because of the -- obviously because
11 of what David Walsh considered to be an earth
12 shattering revelation about Dr. Ferrari.
13 But, you know, the whole time we -- our
14 responsibility was to ourselves and our team and our
15 sponsor and our fans and we just tried to stay -- stay
16 on the road and do our job. That wasn't going to
17 affect us.
18 Again, we slept well at night. But, you
19 know, every year it picked up except -- except for
20 2003. I nearly lost in 2003 so they liked me.
21 Q. Well, so the -- the -- they weren't on your
22 case quite as bad in 2003?
23 Incidentally, what is the -- what was
24 your margin of victory in 2003 -- I mean, just
25 approximately?

Page 1390

1 A. A minute.
2 Q. A minute?
3 A. A minute.
4 Q. So the race lasts 90 hours -- I don't know,
5 I'm kind of amateur arithmetician here, but that's
6 5400 minutes, according to my calculation. So if you
7 won by a minute, the difference between you and the
8 Peloton, or the second place finisher, at least, would
9 have been whatever one over 540 is, which would have
10 been basically two one-hundredths of one percent?
11 A. Small.
12 Q. I mean, one over 5400, which would have been,
13 yeah, two one-hundredths of one percent?
14 A. Yes.
15 Q. Now, you won by four minutes in 2004 -- or
16 2005 rather?
17 A. Something like that.
18 Q. Okay. Well, the -- the reason I'm asking you
19 is -- is that -- is that that seems to me to be a
20 very, very small margin of victory --
21 A. Uh-huh.
22 Q. -- in the sport. I mean, one spill, anything
23 would have changed that. Would you consider two
24 one-hundredths of one percent to be dominating the
25 Peloton?

Page 1391

1 A. I wouldn't. But I know others would view a
 2 four minute margin, when we have seen things as small
 3 as eight seconds and we have seen some as big as ten
 4 minutes. Some would say four minutes is a blow out.
 5 But it's -- you're right, it's a bad crash away from
 6 losing everything.
 7 Q. Does the -- do you have a feeling about
 8 whether or not the strength of the team, of the U.S.
 9 Postal Team and then ultimately in 2005 the Discovery
 10 team, did the strength of that team increase over --
 11 over the seven years that you --
 12 A. Oh, of course, exponentially. The team -- as
 13 I said earlier, that was an analogy, but the team
 14 really improved. It became a much deeper team, a team
 15 that we didn't have to go into the tour with maybe
 16 seven guys ready. We went in with 12 guys ready and
 17 then you whittled that down to the 9 guys that we
 18 needed. The team was very deep -- very, very deep.
 19 Q. Well, for example, you mentioned that you
 20 rode in the '92 Olympics, I guess. Which one -- which
 21 of the Olympics was it when Mr. Ekimov won the gold
 22 metal?
 23 A. Well, he's an older guy so he won a couple.
 24 He won one back in the eighties and then he won again
 25 in Sydney in 2000.

Page 1392

1 Q. He won the gold medal in Sydney in 2000?
 2 A. Yes.
 3 Q. And Mr. Ekimov is on -- had rode with the
 4 Postal Service or Discovery team as well?
 5 A. Still does.
 6 Q. Still does.
 7 So as your -- and you're generally known
 8 as the quarterback of the team, correct?
 9 A. Uh-huh.
 10 Q. So you've got a two-time gold medal winner
 11 that's riding, that's covering you, helping you,
 12 et cetera?
 13 A. Uh-huh.
 14 Q. Does that -- can any other team that you
 15 compete with boast of that kind of an all star cast?
 16 A. Oh, I'm sure if you ask them, they would say
 17 yeah, but I would disagree.
 18 Q. After the -- or you had mentioned in -- when
 19 we were speaking a moment ago that David Walsh had
 20 written an article about Dr. Ferrari, and had a quote
 21 from a Mr. LeMond in that article?
 22 A. Uh-huh.
 23 Q. Was that during the Tour?
 24 A. It was -- I don't even -- just before or
 25 right near the first week.

Page 1393

1 Q. Okay. How did you --
 2 ARBITRATOR CHERNICK: I'm sorry, which --
 3 which year?
 4 MR. HERMAN: 2001.
 5 Q. (BY MR. HERMAN) How did you feel about it
 6 when you saw critical comments from Mr. LeMond?
 7 A. Well, I mean, that -- you know, I referenced
 8 this -- the Tour being won by only eight seconds in
 9 previous years and, of course, he was the rider who
 10 won by eight seconds, which I think we all watched,
 11 and for me that was as I was just getting into
 12 cycling, we covered that early, but winning Sports
 13 Illustrated sportsman of the year as a cyclist was
 14 pretty extraordinary at the time. So naturally he
 15 grew up -- or I grew up idolizing this guy and
 16 watching his career and watching his results and
 17 watching the way he really revolutionized cycling at
 18 the time, too. He made a lot of changes there. So to
 19 hear him say those things, the guy that you idolized
 20 as a kid, was shocking and upsetting for sure.
 21 Q. And after the Tour, did you call him?
 22 A. I did call him.
 23 Q. And were you upset that he had intimated that
 24 you had -- that he was suspicious, perhaps, that you
 25 had used performance enhancing substances?

Page 1394

1 A. Well, I was -- you know, there's a difference
 2 between sad and mad, and I wasn't mad. I was sad,
 3 because -- because I idolized this guy and I was also
 4 not necessarily sure that he was quoted correctly,
 5 because I know Walsh and I know his ability to write
 6 whatever he wants to write. So I asked him if that's
 7 what he said. He confirmed that's what he said. So I
 8 was even sadder, but he even proceeded to -- to go on
 9 and on about a lot of things and it wasn't a very
 10 productive conversation.
 11 Q. Did you, during that conversation, which I
 12 understand was as a result of being sad, as you put
 13 it, about those criticisms from Mr. LeMond, did you
 14 during that conversation admit to Mr. LeMond that you
 15 had engaged in some prohibitive conduct or had taken
 16 some prohibitive substance?
 17 A. Of course not. No, I didn't. As I've said,
 18 I would not admit to a doctor or a friend or Greg
 19 LeMond that I had taken a substance when I have never
 20 taken them, nor would I call him to say why did you
 21 say that about me, oh, by the way I'm going to admit
 22 that to you. That would be in the ridiculous
 23 category, too. I called simply just to get an
 24 understanding for whether or not he did or didn't say
 25 that and it turned into really a nightmare of a

Page 1395

1 conversation.
 2 It was -- it was, of course, in my
 3 opinion completely different than what was reported,
 4 but that's the nature of a two-party conversation,
 5 it's -- it's an A and B conversation, so, you know --
 6 nonetheless it was still disheartening to see my
 7 life -- my boyhood idle turned into somebody who was a
 8 legend of cycling, even to see -- even to see Greg's
 9 involvement in something like this, here's a legend of
 10 the sport I don't understand this type of bitterness
 11 and passion for something that -- I mean, we can do so
 12 many great things with our day. This is his passion
 13 what's in the room right now.
 14 Q. Do you sponsor an event in Austin every year
 15 called the Ride for the Roses?
 16 A. I don't sponsor them. My foundation puts it
 17 on, it organizes it, raises money through it.
 18 Q. And what's the -- what basically is the
 19 format and what is the objective?
 20 A. The objective is a mass start ride like we
 21 see all over the country, all over the world, and it's
 22 our version. We do it down there, we have done it for
 23 seven or eight years now and we raise a lot of money
 24 doing it, bring a lot of people in.
 25 Q. And had you brought Mr. LeMond in a time or

Page 1396

1 two or three?
 2 A. Greg had come a couple of times.
 3 Q. What about the Tour of Hope, what is that?
 4 A. Well, Tour of Hope is different from the Ride
 5 for the Roses or any other --
 6 Q. Right.
 7 A. It's a -- the Tour of Hope is a cross country
 8 ride basically from the west coast to the east coast
 9 finishing in D.C. that's done in partnership with
 10 Bristol Myers Squibb to promote the use and the
 11 message of clinical trials. And it's composed of 25
 12 people that are not professionals or not even
 13 competitive cyclists but they're either survivors,
 14 nurses, doctors, caregivers, family members, anybody
 15 touched by the illness. So thousands of people apply
 16 for this event, 25 are chosen, they're supported
 17 across the country and they do it in a week. They
 18 ride day and night, they do it in the relay format and
 19 I accompany them places along -- along the route and
 20 ultimately we finish in D.C. with this message of hope
 21 and the message of increased awareness for clinical
 22 trials.
 23 Q. How -- how do you view your role now --
 24 A. Uh-huh.
 25 Q. -- with respect to the work of your

Page 1397

1 foundation and your involvement --
 2 A. Uh-huh.
 3 Q. -- with either cancer victims or survivors or
 4 families?
 5 A. Survivors. For me now that's my new peak. I
 6 mean, that's the thing where I need to be making the
 7 best use of my time and that's the place where I
 8 firmly believe that I can make a difference for the
 9 rest of time. You know, we are faced with -- not to
 10 get up here and preach, but since you asked, we're
 11 faced with a real dilemma here and a real predicament
 12 in that we are soon going to have the number one
 13 killer in American on our hands and the funds are
 14 decreasing as rapidly as the illness is increasing.
 15 And it's now my job, honestly, to change that.
 16 And not just on a small level. We can do
 17 rides in Austin, we can do the Tour of Hope, but those
 18 raise millions of dollars. I'm talking about raising
 19 billions of dollars and the budget of the NCI is \$4
 20 billion dollars and increasing. Iraq cost us five or
 21 600 billion. It's time for this country to step up
 22 and realize that this is a serious killer and recommit
 23 ourselves. Not to get on my soap box, but that's a
 24 priority for me and I want to make a difference there.
 25 We have seen people use their careers for -- success

Page 1398

1 in their careers for the good of mankind and they can
 2 leverage that sometimes and I hope to do that. That's
 3 why this stuff is so unfortunate.
 4 Q. This stuff --
 5 A. This stuff.
 6 Q. -- being?
 7 A. This room. This stuff that we have to listen
 8 to, this stuff that the panel is going to have to
 9 listen to. It's not true, it's not fair, it's not
 10 morally responsible, and it would ultimately -- you
 11 know, if this courtroom was on CSPAN or was on CNN or
 12 Court TV it would have a drastic effect on what I'm
 13 trying to do off the bike. And, of course, this is
 14 not -- that's not the case fortunately, but I'm
 15 personally offended by that. And I think we all would
 16 be if you were in my shoes or my position, because as
 17 I said we have a lot of choices to make every day in
 18 how to use our time and this isn't my idea of a good
 19 time. I race the bike straight up fair and square.
 20 Yeah, there are questions, good performance is a
 21 question. But this stuff we are going to see in here
 22 it goes beyond.
 23 Q. Let me ask you this about the -- about the
 24 testing in general. And I know you don't know the
 25 precise number of times you've been tested, but

Page 1399

1 describe for the panel the concept of in competition
2 testing and out of competition testing and how
3 those -- how those two concepts work?
4 A. Well, in competition testing is pretty
5 predictable. You win or there's an off chance that
6 you're selected randomly. They call your name in the
7 middle of the race and you have to appear to give a
8 sample. If you win, you certainly have to give a
9 sample. If you're the leader, you certainly have to
10 give a sample.
11 Now, in my view, and I have shared this
12 view with all the authorities, the only way and the
13 best way to fight doping is out of competition
14 testing. Show up on the doorstep; if you're not
15 there, you've got 24 hours to show up and if you're
16 not here, you're out. And they're getting there, this
17 is what we call the whereabouts program or
18 something.
19 Q. Tell the panel what requirements you're
20 under, let's say you're going on vacation, you're
21 going to be away from your home for three days or
22 whatever --
23 A. The requirements are very simple. If I was
24 racing this year, they would have to know I'm sitting
25 in this chair. 24/7 you have to say where you are,

Page 1400

1 where you're training, where you're vacationing, where
2 you're eating, where you're at anywhere and they need
3 your phone number and your addresses and a secondary
4 phone number, a secondary address. They need all of
5 these things.
6 So, you know, it's pretty much consistent
7 coverage. And, you know, they've gotten better at
8 doing it. It has increased over the years certainly.
9 Just 2005, for example, there was six out of the
10 competition controls completely surprised on the
11 doorstep unannounced.
12 Q. On you?
13 A. On me. I asked Ivan Basso at the Tour de
14 France how many he had one, he had one just before a
15 little bit before the Tour de France.
16 Q. Ivan Basso finished third?
17 A. Yes.
18 Q. And give us an idea of some of the
19 locations where they've showed up. Have they always
20 showed up at your house?
21 A. Well, it just -- it just depends. They'll
22 show up at your house, they will show up -- they
23 showed up to at my house in Spain, they once showed up
24 at my house in Austin and I had changed my form, you
25 do it on the Internet, and they said, we are here for

Page 1401

1 you, and I said, I'm in New York City. I was there
2 supporting the 2012 bid for the Olympic games there.
3 And I said, I'm in New York City. And they said,
4 well, that's a missed test. And I said, no, I changed
5 the form last night, but I'll be here for another day
6 so just come up here whenever you -- whenever. So
7 they sent somebody that day. I mean, that's --
8 literally it is to the minute.
9 Q. Was there -- I'm sure it's not -- it wasn't
10 comical at the time, but as you look back on it during
11 the birth of one of your children did --
12 A. Two of them.
13 Q. Well, they were the same time. You don't get
14 to count as twice, but anyway tell the panel what
15 happened on that occasion.
16 A. Well, and I don't want to criticize the
17 authorities. They don't know when they're showing up,
18 but they just happened to be showing up when we were
19 literally walking out the back door to have -- or to
20 give birth to the twins, and I had to wait. I had to
21 wait to give the sample before we went to the
22 hospital. But that is part -- that's part of the
23 process. And I accept that. I've never -- I've never
24 fought that. I've never said this is a violation of
25 my rights. This is a violation of my privacy. I

Page 1402

1 easily could have said that. A lot of athletes say
2 that, you can't come to my house. I've never said
3 that. In fact, I have said, no, you have to go to the
4 house.
5 Q. If someone -- there was a suggestion that you
6 had made a -- a contribution to the UCI or the
7 International Cycling Federation -- or Union?
8 A. Union.
9 Q. Why did you do that and was there -- did you
10 receive any preferential treatment as a result?
11 A. Well, I never received preferential
12 treatment. The UCI is not a cash rich organization,
13 they struggle on an annual basis with budgets and
14 boards and directors and just getting by like a lot of
15 companies and organizations and governing bodies. So,
16 yeah, I made a contribution there to help them fund
17 and fight the war against drugs or doping.
18 Of course, that's been viewed as Al
19 Capone buying police cars for the Chicago police
20 department, too, but it's not that. It's not --
21 there's other things that are right in line with
22 that.
23 Q. Is there anything improper at all about
24 making a contribution to help fund an antidoping
25 program?

Page 1403

1 A. I would hope not. In -- in fact, I
2 encouraged other athletes to do the same and I don't
3 think anybody else did.
4 Q. All right. Let me -- let me change topics
5 with you. Dr. Ferrari's name has been thrown around
6 here and, you know, without engaging in hyperbole, I
7 think the suggestion has been that Dr. Ferrari is a --
8 is a doping doctor and that anyone who deals with
9 Dr. Ferrari is a doper. You've heard that before?
10 A. I have heard that.
11 Q. Just tell the panel what your relationship
12 was or how you dealt with Dr. Ferrari and what really
13 Dr. Ferrari brings to your training and to your
14 career.
15 A. Well, Ferrari was a part of the team, he was
16 an advisor to the team. He had been -- he has been in
17 cycling for the better part of 25 years, came up
18 through one of the better schools in Italy in his
19 hometown, and I had heard good things about him, very
20 smart, knew the history of the sport well, knew the
21 numbers of the sport well, was very good about testing
22 and following certain athletes and being very
23 consistent about that.
24 We decided to have him follow me with
25 some tests and some programs back in the mid to

Page 1404

1 late '90s, and it basically continued like that for
2 years. I mean, sporadic or occasional meetings,
3 tests, a little bit of interaction if we wanted to
4 deal with altitude issues or altitude tent issues or
5 hour record issues. He was a genius when it came to
6 that. And we asked his opinion on that. That didn't
7 change the model, the model of Johan Bruyneel being
8 the director and the head coach, Chris Carmichael
9 being my long time confidant and coach and a ton of --
10 well, not a ton, but many, many advisors into this
11 mix. He was one of them.
12 Of course, he came as well here as in
13 Europe with a bit of a dodgy reputation. All we can
14 do is evaluate that by what we know and what we see
15 and what we are told. We never had any reason to
16 believe that this guy was dirty. In fact, we had
17 reason to believe the opposite.
18 Q. Well, did -- well, was Dr. Ferrari, did -- I
19 mean, how did he fit with Mr. Carmichael, your coach?
20 A. Well, Chris was in the states. He was -- as
21 JT said, he's running a full-time business, on a
22 full-time basis, and impossible to be in Europe. We
23 are over in Europe all year long training and racing
24 and preparing over there. The fit was not very
25 complicated.

Page 1405

1 Q. The -- the -- you've seen, but I don't think
2 you've read Lance Armstrong's War, by Daniel Coyle?
3 A. I've seen it.
4 Q. Okay. You've seen it?
5 A. Parts of it.
6 Q. I used to have a partner that always said,
7 yeah, I've looked through this pleading, you know,
8 so --
9 But anyway, there's a description in
10 there of Coyle being with you and members of the U.S.
11 Postal team for months prior to the 2004 Tour de
12 France?
13 A. Uh-huh.
14 Q. How did that -- how did that happen where you
15 let Coyle come with you and accompany you and --
16 during your training and during the Tour? How did
17 that happen?
18 A. Well, we -- you know, I had nothing against
19 Dan, but I think the book is a little overhyped when
20 it comes to access. So to say that -- and if you read
21 the book, which some people have, you would think we
22 lived together. I had nicknames for him, he had
23 nicknames for me, da-da-da-da. I mean, our kids hung
24 out, et cetera, et cetera. It wasn't like that. Dan
25 would show up a lot. The guy was very persistent. He

Page 1406

1 traveled everywhere. I'll never forget, our first
2 race in 2004, we were in the Southern Portugal. He
3 drove and drove to Southern Portugal with a carful of
4 his wife and his kids, like four kids. I thought, man
5 this guy is committed. These are like six-year-old
6 kids. So at that time I thought, wow, that's a little
7 bit too committed, and so -- but Dan was very
8 persistent, he was there, and I think he was a solid
9 journalist and has a great style of writing. But as
10 you can see from that book, for a bunch of people that
11 are trying to hide somebody there really wasn't a lot
12 of hiding going on.
13 Q. Well, I noted that there were pages and pages
14 and pages of interview -- of quotes from Dr. Ferrari
15 with Dan Coyle, and I guess my question is was -- was
16 the consultation that Dr. Ferrari provided ever a
17 secret?
18 A. No. I mean, what would be a secret. It's
19 very difficult to keep a secret on the side of the
20 road. If they give you -- if you're doing a test on
21 the side of the road, you have to know that that's not
22 a secret, cars are passing by, other cyclists are
23 passing by, potentially journalists -- anybody is
24 passing by. That can't be a secret. If you're asked
25 about it and you say yes or you talk about it, that's

Page 1407

1 also not a secret, and that's what I always tried to
 2 do. It was never kept secret.
 3 We were -- I will also say I think that
 4 our team was viewed as secretive about a lot of
 5 things. If it was developing a bike, we were
 6 secretive. If we were developing training, we were
 7 secretive. If we were going to the Alps or the
 8 Pyrenees too preview, we were secretive. Because we
 9 don't want people hanging around asking for
 10 interviews, asking for things. We were viewed as sort
 11 of a stealthy, secretive team. This could have been
 12 lumped into that. Nowhere -- on the record I've never
 13 lied about that.
 14 Q. Well, let me -- when I either read somewhere
 15 or heard Mr. LeMond say that he came in second in '85
 16 and Bernard Hinault was his teammate, and Mr. LeMond
 17 was leading in '86 and -- in the Tour de France and he
 18 fingerprinted all of his water bottles and
 19 photographed them and had a personal assistant inspect
 20 them and not let him have anything that -- that
 21 hadn't -- that he didn't know where it had been all
 22 the time. Have you found it necessary or at least
 23 advisable, given the sort of attitude or -- that
 24 you've encountered, to do the same thing or similar
 25 thing?

Page 1408

1 A. This year we protected the food a lot. In
 2 terms of controlling the food, cooking our own food,
 3 really a self-contained environment. Everything that
 4 went in my body we protected. So there was a lot of
 5 talk even after the Tour de France about the blue
 6 cooler.
 7 Well, that blue cooler, unfortunately,
 8 for the skeptics had water, bread, pasta, butter, jam,
 9 jelly, honey, et cetera, et cetera. And the food came
 10 in and out of the hotels every day like that --
 11 Q. So there was --
 12 A. -- breakfast and dinner.
 13 Q. There was a blue -- there was a blue cooler
 14 moving out -- in and out. Did you ever put anything
 15 in your mouth, at least during the 2005 Tour, that you
 16 didn't know precisely where it had come from?
 17 A. Of course, and that's -- if you think about
 18 how many times you put something -- you can't control
 19 everything. There are times where something goes in
 20 that's not been controlled, but the point is you have
 21 to make your best efforts to control as much as you
 22 can.
 23 Q. There's been a document in evidence here that
 24 reflects a conversation between Mr. Bandy and
 25 Mr. Hamman on the one hand and David Walsh on the

Page 1409

1 other back in September of 2004 that Mr. Walsh
 2 describes Thibeault Montbrial as a French lawyer who's
 3 got an -- who's got inside connections with the French
 4 police who are out to get Lance Armstrong. Would you
 5 be surprised?
 6 A. Not at all. No, they -- the French police
 7 have been out to get me for six, seven years.
 8 Q. We began talking about Dr. Ferrari, and I
 9 would like for you to describe to the panel, if you
 10 will, the scientific or coaching expertise that
 11 Dr. Ferrari provided you as a consultant in addition
 12 to Mr. Carmichael?
 13 A. Well, I think the most important word to use
 14 there is experience, as a guy who's been 20, 25 years
 15 at high level cycling -- high level sport, not just in
 16 cycling but triathlons, marathon running, even
 17 coaches, guys who ride great big motorcycles. He's a
 18 man who knows the body very well, he knows the diet
 19 very well, he knows the different aspects of cycling
 20 very well, as I said before, altitude, preparation for
 21 the hour record, cadence, cadence related issues; one
 22 of the things -- one of the biggest changes we made
 23 pre and post illness. Very, very bright man.
 24 I don't want to -- I never hid that
 25 relationship, because I truly believed in him and I

Page 1410

1 still believe in him today. I understand the Italian
 2 courts convicted him for a few counts and I also
 3 understand that's on appeal and I firmly believe that
 4 he will be cleared. And if he was cleared and I was
 5 racing again, I would absolutely consult with him all
 6 over.
 7 Q. There's been mention, I guess, of -- at least
 8 by rumor to me that Dr. Kearney has talked about
 9 lactate threshold tests and that sort of thing. What
 10 did Dr. Ferrari bring -- when you say tests, was that
 11 the principal roll of Dr. Ferrari to test you and test
 12 your condition at various stages of your conditioning?
 13 A. Well, the test is a benchmark and that's --
 14 if you're trying to get to a certain level that you
 15 know you've been at before, that's what you want to
 16 know. You want to build your way back up to that.
 17 You lose that condition in the off season. The
 18 objective is to get back to where you were 12 months
 19 prior. So the only way to know that you're doing that
 20 is through testing. So that requires an athlete, a
 21 bike, a power meter and a lactate -- I don't know what
 22 you call it, a lactate monitor, blood lactate tester.
 23 Q. And a --
 24 A. And a person to write down the numbers.
 25 Q. Were you -- are you to the only athlete that

Page 1411

1 consults with Dr. Ferrari?
 2 A. No.
 3 Q. There are many, many, many, elite athletes
 4 who have consulted with Dr. Ferrari?
 5 A. Correct.
 6 Q. His daughter is a -- is a world class
 7 marathoner?
 8 A. Correct.
 9 Q. You mentioned earlier that when you first
 10 became affiliated or when you first began consulting
 11 with Dr. Ferrari that he had a bit of a dodgy
 12 reputation, I believe is what you called it. And you
 13 were aware, I take it, that Mr. Gorski, for example,
 14 had inquired of you or had offered his opinion about
 15 Dr. Ferrari early on?
 16 A. I'm aware of that now. I wasn't aware of
 17 that at the time.
 18 Q. But I guess the fundamental question is, did
 19 Dr. Ferrari ever prescribe, administer or suggest any
 20 kind of a drug or doping program for you?
 21 A. He did not.
 22 Q. Was he a motivator?
 23 A. Probably the best and toughest motivator I've
 24 ever met.
 25 Q. I was reviewing the -- the Respondent's

Page 1412

1 exhibits and I can't remember what exhibit number it
 2 is, but it was this article Rominger Closes the File,
 3 an article in January of 1998. Who is Tony Rominger?
 4 A. He's a former professional cyclist, very,
 5 very successful, multi Grand Tour winner, hour record
 6 holder.
 7 Q. I think it's -- do you know what his
 8 nationality was?
 9 A. Swiss.
 10 Q. Swiss.
 11 In this article, I think it's
 12 Respondent's 56, I'll correct that if it's --
 13 MR. BREEN. It's up on the board.
 14 MR. HERMAN: Oh, 54, Respondent's 54.
 15 Q. (BY MR. HERMAN) Rominger, was he a highly
 16 regarded cyclist in professional cycling?
 17 A. Highly regarded.
 18 Q. On page 3 of that article, this 1998 article,
 19 it has to do with Rominger hanging it up, but he says,
 20 Ferrari saved me. He phoned me and asked me what I
 21 wanted to prepare. He said that if I wanted to do the
 22 world, I would have to start doing five, six or seven
 23 hours a day now. I told him I couldn't do it, so he
 24 said we should try to win all the time trials,
 25 et cetera, et cetera. But you've indicated that

Page 1413

1 Dr. Ferrari never brought to you any performance
 2 enhancing substances. Does this sound like his advice
 3 to do five, six, seven hours a day on the bike?
 4 A. Yes, he's firm when it comes to training and
 5 diet in approach to cycling.
 6 Q. On the -- a couple of pages later in that
 7 article, I guess three pages later, I just want to
 8 cover one thing. The -- it shows Rominger and Ferrari
 9 track testing, and it mentions that Ferrari organized
 10 the altitude training camps where Rominger prepared
 11 for the Tour de France. They increase your red cell
 12 count, et cetera. Did you train at altitude as well
 13 prior to the Tour?
 14 A. Oh, yeah, every year.
 15 Q. And did you utilize hypoxic tents as well --
 16 A. Yes.
 17 Q. -- to simulate altitude?
 18 A. Every year.
 19 Q. Have you ever had a hematocrit measured at
 20 the Tour de France that was over the mid 40s?
 21 A. Never above 46.
 22 Q. We all know you're the official winner of the
 23 2001, '2, '3 and '4 Tour de France. Did you during
 24 any one of those four races ever violate the rules of
 25 the UCI or the Tour de France event?

Page 1414

1 A. No. Never.
 2 MR. HERMAN: I'll pass the witness and
 3 offer Exhibit 120.
 4 ARBITRATOR FAULKNER: Any objection?
 5 MR. HERMAN: Oh, wait. I do have one
 6 final -- let me just withdraw.
 7 MR. TILLOTSON: No objection to 120.
 8 MR. HERMAN: Okay.
 9 ARBITRATOR FAULKNER: 120 will be
 10 admitted.
 11 MR. HERMAN: Your Honor, with Your
 12 Honor's permission.
 13 ARBITRATOR FAULKNER: Ask your other
 14 question.
 15 Q. (BY MR. HERMAN) There has been a suggestion
 16 that a research project undertaken by someone in
 17 Europe in 2005 revealed the presence of exogenous EPO
 18 in urine samples that had been frozen since 1999.
 19 A. Uh-huh.
 20 Q. You're not a scientist, I understand that,
 21 what is your explanation of that?
 22 A. Well, when I gave the sample, there was no
 23 EPO in the urine. Now, why is it there now or why
 24 does the paper say it's there now? I don't know,
 25 other than pure witch hunt. But as the newspaper also

Page 1415

1 said, the athlete in question cannot defend himself,
 2 because there's no samples left. So they could have
 3 said there was anything there, but I can't defend
 4 myself.
 5 There's a system in place, there's been a
 6 system in place for 30 -- for as long as -- and you'll
 7 hear from experts asked, for as long as drug controls
 8 have been around there's an A and a B sample system.
 9 If the A is positive, the athlete comes in with a
 10 representative from his scientists and his lawyers and
 11 they test it together and they say, yes, it is or
 12 isn't positive. We don't have that ability, we don't
 13 have that luxury.
 14 Of course, there is a man in a French lab
 15 who says I did it, trust me, it's perfect, it's
 16 positive, but I don't believe that. And I can't
 17 believe that, because when I gave the sample, it
 18 wasn't in there. And the proof doesn't just come from
 19 the 1999 samples. The proof comes from 2000 to 2005
 20 when I supposedly had it taken away. If it was there
 21 in 1999 and the performance never suffered, it only
 22 got faster. So that was a hard call to get,
 23 especially knowing that I had no defense. They even
 24 said I'm defenseless. But I'll go to my grave knowing
 25 that when I urinated in the bottle, it was clean.

Page 1416

1 MR. HERMAN: Pass the witness.
 2 MR. TILLOTSON: Thank you.
 3 ARBITRATOR FAULKNER: Please proceed.
 4 THE WITNESS: Can I go to the bathroom
 5 real quick?
 6 ARBITRATOR FAULKNER: We have a
 7 facilities break request. Why don't we take ten
 8 minutes to do that and then we'll continue to proceed.
 9 (Recess 3:56 p.m. to 4:05 p.m.)
 10 ARBITRATOR FAULKNER: All right,
 11 Mr. Armstrong, you're still under oath.
 12 Mr. Tillotson, please proceed.
 13 CROSS EXAMINATION
 14 BY MR. TILLOTSON:
 15 Q. Mr. Armstrong, I want to begin with some
 16 questions regarding one of the exhibits Mr. Herman
 17 showed and marked for you, which is Exhibit 120, which
 18 is your statement of April 2001. Do you have that in
 19 front of you?
 20 A. I do.
 21 Q. If you'll take a look at one, two, three,
 22 four -- paragraph 5, the portion you read. The third
 23 sentence, it says, does it not, any allegation of
 24 doping should be studied in detail, correct?
 25 A. Correct.

Page 1417

1 Q. And you believe that?
 2 A. I believe that.
 3 Q. And you said that publicly in April of 2001
 4 knowing many people would hear that and know that's
 5 your position, correct?
 6 A. That's correct.
 7 Q. And you stand behind that statement -- that
 8 single sentence, not only in April 2001 but even
 9 today, correct?
 10 A. Within -- yes, within fair and normal
 11 reading, yes.
 12 Q. Now, an allegation of doping would include a
 13 former teammate of yours saying that he heard you
 14 admit to the use of drugs, correct?
 15 A. That would be an allegation, it wouldn't be
 16 as serious as what we were faced with here, but that
 17 could be an allegation.
 18 Q. And you would agree that that's an allegation
 19 that should be studied in detail for anyone who has
 20 heard it, correct?
 21 A. I suppose so.
 22 Q. Because the statements of your teammates can
 23 carry some credibility, can they not?
 24 A. It depends.
 25 Q. And -- well, you make statements about your

Page 1418

1 teammates and their non-use of performance enhancing
 2 drugs in this very statement, didn't you?
 3 A. Yes.
 4 Q. In fact, you said in the paragraph above the
 5 one I read, the last sentence, neither I nor any
 6 member of my team did or took anything illegal. Do
 7 you see that?
 8 A. Uh-huh, well, it says we -- we have confirmed
 9 that we have cooperated with the process and supported
 10 the investigation.
 11 Q. Right, but you're not just saying yourself,
 12 you're also making the statement about your team
 13 members that they haven't used drugs or performance
 14 enhancing substances in this statement, correct?
 15 MR. HERMAN: You're talking about the
 16 paragraph prior to the one --
 17 MR. TILLOTSON: Yes.
 18 MR. HERMAN: Okay.
 19 ARBITRATOR FAULKNER: Last sentence.
 20 MR. HERMAN: Fourth paragraph down is the
 21 one.
 22 THE WITNESS: Okay.
 23 Q. (BY MR. TILLOTSON) I'm sorry. Let me direct
 24 your attention to the fourth paragraph down,
 25 Mr. Armstrong. Last sentence of that paragraph. You

Page 1419

1 say, I welcome the continued testing so there will be
2 no doubt that neither I nor any member of my team did
3 or took anything illegal, right?
4 A. Yes.
5 Q. And to say such a statement you have to have
6 some confidence that your team members are not using
7 performance enhancing drugs, correct?
8 A. That's why we turned over the samples.
9 Q. Otherwise you wouldn't be making statements
10 about your team members, correct?
11 A. Correct.
12 Q. Now, throughout the course of your career --
13 and you were here for -- for --
14 A. Can I just say one thing? They were asked if
15 they could -- if they were -- if they had permission
16 to turn over their samples.
17 Q. Okay. Thank you.
18 You were here for openings and in
19 connection with openings I showed in the very first
20 slide a statement that you made in connection with the
21 allegations that were published by L'Equipe magazine
22 in the last year. Do you remember that slide?
23 A. I do.
24 Q. And I believe I took a press release off your
25 web site. Does that look familiar? Now, is The

Page 1420

1 Paceline your web site?
2 A. Yes, it's the team's web site.
3 Q. And The Paceline collects and has on it
4 available various press releases issued by the team or
5 yourself?
6 A. Correct.
7 Q. And it's both the team and there are also
8 things personal regarding yourself on this web site;
9 is that fair?
10 A. Yes.
11 Q. Okay. And you said in this statement that I
12 showed one thing clear, I believe in clean and fair
13 competition and, as I said before, I do not use and
14 have never used performance enhancing drugs. Do you
15 see that?
16 A. I see that.
17 Q. And that kind of statement has been made by
18 you throughout the course of your career from 1999
19 through January of 2005, fair?
20 A. Correct.
21 Q. And you have made these kinds of statements
22 sometimes in response to specific allegations, fair?
23 A. Fair.
24 Q. For example, when L'Equipe's story came out,
25 you went on the Larry King Live show and made

Page 1421

1 statements very similar to this about your non-use of
2 performance enhancing drugs, true?
3 A. True.
4 Q. You made statements publicly regarding the
5 1999 incident with the saddle sore and the cream,
6 fair?
7 A. That's right.
8 Q. You made statements regarding the 2000
9 incident that you talked about earlier regarding your
10 non-use of drugs and we have just seen one of those,
11 correct?
12 A. Uh-huh.
13 Q. Correct?
14 A. Uh-huh.
15 Q. And in connection with other incidences or
16 the Tour, you have repeatedly said to the public that
17 you do not use performance enhancing drugs?
18 A. Of course.
19 Q. Now, there's a difference between making a --
20 between saying that and also issuing a press statement
21 saying that, right?
22 A. Uh-huh. Well, this was a press statement, I
23 think, in response to a French doping investigation,
24 so it's -- they are always in response to -- I -- I
25 have to say I don't just wake up on days and feel like

Page 1422

1 making a statement. They're always in response to
2 question, accusations, allegations.
3 Q. Okay, fair enough. My point is that as a
4 press release you know that you are issuing it to the
5 press in order to have your view publicized, fair?
6 A. Right.
7 Q. So that whatever is being written in the
8 newspapers or being said about you, at least your
9 denial is publicly known to people?
10 A. Absolutely.
11 Q. And it's not just in response to a particular
12 allegation. I mean, when you write things like in
13 your book, It's Not About the Bike, you certainly say
14 in your book that you had never used performance
15 enhancing drugs, correct?
16 A. Right.
17 Q. And that wasn't really in response to any
18 particular charge, it was a statement about yourself
19 in this book?
20 A. The book -- the book was written and authored
21 just after the first Tour and there was a lot of talk
22 not just in France, but all over the world about the
23 drugs, about what happened in '98, about their
24 disbelief and what could happen in '99. So, you know,
25 I think that's in response, too.

Page 1423

1 Q. So that the public will know your side of the
 2 story regarding some of these charges and allegations?
 3 A. Yes.
 4 Q. Fair?
 5 A. We always like the public to know our side of
 6 the story, all of us do.
 7 Q. Not just the public, but also I think I heard
 8 you in your direct testimony say a few times that some
 9 things were also intended for your sponsors; is that
 10 fair?
 11 A. No. Our responsibility was to our sponsors
 12 to perform well and to perform in a way that we were
 13 hired to do.
 14 Q. Well, one of the reasons that you had issued
 15 these press releases that we have seen and that you've
 16 said you have issued is so that people will know Lance
 17 Armstrong doesn't use performance enhancing drugs?
 18 A. Well, you know, these -- I have to be honest
 19 with you, these aren't -- these are not directed to
 20 the sponsors, because when a sponsor commits millions
 21 of dollars and has a personal relationship, that
 22 communication doesn't go through the press. That
 23 would be a phone call to myself or to Bill to say, you
 24 know, we have a problem with this. And they would fly
 25 down or we would fly up and it would be literally a

Page 1424

1 one-on-one, a face-to-face meeting discussing that.
 2 This would not be, you know, my justification to
 3 Coca-Cola as take why there's even an investigation.
 4 Q. But no sponsor has ever called you to say
 5 that, correct?
 6 A. Maybe once, during the investigation.
 7 Q. Okay. I'm going to give you a copy of your
 8 deposition, which I have, which I'm going to show to
 9 you. You remember being deposed, correct?
 10 A. I do.
 11 ARBITRATOR FAULKNER: Tim, I think it
 12 went down on the floor on the other side.
 13 MR. HERMAN: It's okay. I don't need it.
 14 Q. (BY MR. TILLOTSON) Okay. Here's a copy of
 15 your deposition that we took on November 30th, was it,
 16 of last year?
 17 MR. HERMAN: Yes. I mean, I'll stipulate
 18 it was November 30th, unless it's important for the
 19 witness.
 20 MR. TILLOTSON: No, I was just playing
 21 foundation.
 22 Q. (BY MR. TILLOTSON) You remember your
 23 deposition, Mr. Armstrong, correct?
 24 A. Correct.
 25 Q. Okay. If you'll turn to page 122 and

Page 1425

1 Ms. Evora is also going to put it up on the screen.
 2 You'll see your answer there in line 12, you said, all
 3 I can tell you is we have never had that phone call.
 4 Nobody has called and said, if it's Coca-Cola, if it's
 5 Nike, if it's Bristol, Myers, Squibb, if it's any --
 6 nobody has called and said, we have some questions.
 7 Do you see that?
 8 A. Right.
 9 Q. And that's accurate, right?
 10 A. As I said, I think that's accurate. There
 11 may have been one time, but..
 12 Q. And one of the reasons it's true, is it not,
 13 that your sponsors don't call you and ask these kinds
 14 of questions is because you've made your position
 15 regarding the non-use of drugs perfectly clear in the
 16 media?
 17 A. I've -- I've made what I know to be the truth
 18 to be perfectly clear to the media.
 19 Q. Coca-Cola doesn't have to call because they
 20 know through various publications and quoting your
 21 statements Armstrong is clean; fair?
 22 A. I think they trust the relationship.
 23 Q. And you don't -- you're not surprised as you
 24 sit here today to find out -- if I were to say
 25 sponsors rely on the things you say publicly, that

Page 1426

1 doesn't surprise you, does it?
 2 A. Obviously they read what they see in the
 3 paper, what they see on TV, they pay attention, but
 4 they know the person and they know -- they know what
 5 goes into being a top level athlete and they do that
 6 work beforehand. I don't think they rely on my public
 7 statements to determine if I'm a good or a bad guy.
 8 Q. Okay. Well, let's focus specifically with
 9 respect to allegations regarding drug use. It
 10 wouldn't surprise you that sponsors don't need to call
 11 you up and ask you to deny allegations because you've
 12 made your position regarding the falsity of those
 13 charges completely clear in the media?
 14 A. Okay. I'll give you that.
 15 Q. Thank you.
 16 Now, you also know that in addition to
 17 things you say, that the team also makes various
 18 statements regarding the team and yourself?
 19 A. Of what they know to be true, yes.
 20 Q. Okay. And also Mr. Stapleton, who is your --
 21 your agent, manager, attorney-in-fact, friend, has
 22 also made statements on your behalf as well?
 23 A. Yes, he has.
 24 Q. And one of the persons who made statements
 25 regarding the team -- I'm focusing on the U.S. Postal

Page 1427

1 Service team as opposed to the Discovery team if
 2 that's okay -- would have been Mr. Gorski, correct?
 3 A. At times.
 4 Q. Well, for example, you know that Mr. Gorski
 5 also issued a statement after the 1999 incident
 6 denying that there was anything inappropriate about
 7 that -- the use of that particular topical cream,
 8 correct?
 9 A. If you tell me he did, I believe you.
 10 Q. Okay. Do you remember him issuing such a
 11 statement on behalf of the team?
 12 A. No, I do not, but I believe you.
 13 Q. Okay. It wouldn't have surprised you that
 14 Mr. Gorski issued such a statement?
 15 A. No. He was the general manager of the team.
 16 Q. And the only way he could have made those
 17 statements publicly that there was nothing
 18 inappropriate about use of that topical cream was to
 19 draw that assurance from yourself, right?
 20 A. Yes.
 21 Q. Now, I want to focus on the -- on the --
 22 well, before I do that I want to focus on just one
 23 thing. I noticed in your book you wrote and I -- It's
 24 Not About the Bike, at page 63 you said, there was a
 25 science to winning. I'm not going to ask you to

Page 1428

1 recall everything you said in your book, but I want to
 2 turn to some of the science aspect of bicycling that
 3 we have heard about this morning from Dr. Kearney and
 4 from yourself.
 5 First, with respect to your weight, I
 6 believe you testified that one of the differences
 7 between you as a rider from 1999 to 2005 and before
 8 your illness was decreased weight.
 9 A. Correct.
 10 Q. And obviously you weigh less, but are able to
 11 exert more power, more effective rider, fair?
 12 A. Fair.
 13 Q. And I think you told me that you weighed --
 14 I'm old enough to remember when the United States was
 15 going to supposedly convert to metric. I know how
 16 well that went. But I think you told me that you
 17 weigh before the Tour de France, 72 to 73 kilos?
 18 A. Plus or minus.
 19 Q. And before then you would have been in the
 20 low eighties; is that right?
 21 A. True.
 22 Q. Okay. If you'll turn to Exhibit 33,
 23 Respondent's Exhibit 33, and that will be in a blue
 24 binder, it might be in front of you. I'm not sure
 25 what page. Respondent's Exhibit 33 is an article that

Page 1429

1 we looked at earlier today by Edward Coyle and you
 2 know who he is, right?
 3 A. Of course.
 4 Q. He's sitting over there, fair?
 5 A. Fair.
 6 Q. That's him, isn't it?
 7 A. Yes.
 8 Q. Okay. And this is an article written about
 9 you and about how your improved muscular efficiency as
 10 an elite athlete helped contribute to your success in
 11 the Tour de France; is that right?
 12 A. That's what it says.
 13 Q. Have you ever looked at it?
 14 A. Briefly.
 15 Q. You're generally aware that it was published?
 16 A. Of course.
 17 Q. All right. I want to focus just on the
 18 table -- the page I've opened to you on page 2193.
 19 The one over at that very top part, this shows testing
 20 data from '92, '93, '93, '97 and November of '99. Do
 21 you see that?
 22 A. Uh-huh.
 23 Q. And it shows your body weight. And I take it
 24 Dr. Coyle actually measured you for this data. Do you
 25 recall that?

Page 1430

1 A. I do.
 2 Q. Okay. And if you'll see that your -- you
 3 were measured in November of 1999?
 4 A. Right.
 5 Q. And your weight was 79.7 kilos; is that fair?
 6 A. That's fair. That's what it says.
 7 Q. That's what it says.
 8 That would mean that from the Tour de
 9 France which ended in, let's say, the end of July of
 10 1999, which you won, until November of 1999, you would
 11 have gained somewhere between six and seven kilos.
 12 A. No, I started at 74 -- or 73 or 74, whatever
 13 that number is, it would be -- yes, six or -- five or
 14 six kilos.
 15 Q. Okay. I believe I heard you say you started
 16 at 72 or 73, is it a range between 72 and 74?
 17 A. When you just asked me I said plus or minus.
 18 Q. Okay. Now, the other thing I thought I heard
 19 you say --
 20 A. The only reason I say that is I don't know
 21 exactly so I don't want to quote you an exact number.
 22 Q. Okay. The other thing that I want to ask you
 23 about is you had mentioned that there's something
 24 measured called the hematocrit level. Do you recall
 25 that testimony from Dr. Kearney?

Page 1431

1 A. Yes, I heard that.
 2 Q. And I believe that Dr. Kearney explained to
 3 us this morning what that was and how that's measured.
 4 A. Uh-huh.
 5 Q. You're familiar with that term and that
 6 measurement?
 7 A. Yes.
 8 Q. And there are rules for the Tour de France
 9 that if your hematocrit level is 50 or greater, you
 10 cannot race?
 11 A. True.
 12 Q. Those rules have always been in place but
 13 they were the place -- do you remember when that came
 14 into play?
 15 A. I think the year that I was off, '97, I think
 16 they started.
 17 Q. Prior to those rules coming into play, did
 18 you ever measure your hematocrit level --
 19 A. No.
 20 Q. -- in connection with any --
 21 A. Well, no. If you would have been in a lab or
 22 any sort of -- any sort of doctor visit, they would
 23 have measured that.
 24 Q. Other than in testing, which I'm going to
 25 talk about in a second, in a lab, did you ever have

Page 1432

1 any occasion to test your hematocrit level at any
 2 particular race before the rules and regulations were
 3 employed setting a maximum?
 4 A. By myself?
 5 Q. Yes.
 6 A. No.
 7 Q. Or with team members?
 8 A. Maybe the team doctor did, but not myself.
 9 Q. Now, I think you said earlier today that you
 10 don't think you've ever tested higher than a 46
 11 hematocrit level for the Tour de France; is that
 12 right?
 13 A. Right.
 14 Q. In connection with an exhibit offered earlier
 15 today, which is Claimant's Exhibit 118, and I'll
 16 approach you if I may. This was identified as some
 17 documents from testing that Mr. Kearney did --
 18 Dr. Kearney, you know who he is, don't you?
 19 A. Of course.
 20 Q. Okay. And this testing was done in
 21 connection with 1991. Do you see that?
 22 A. I do.
 23 Q. Was that Olympic team testing, USOC?
 24 A. Yes. Well, pre-Olympic team, yes.
 25 Q. Okay. And your hematocrit level in

Page 1433

1 connection with those testings in 1991 was 48.8
 2 percent?
 3 A. That right.
 4 Q. That's right?
 5 A. That's right.
 6 Q. Now that's very close to the 50 percent
 7 level; would you agree with me?
 8 A. Correct.
 9 Q. And there are athletes out there that -- in
 10 cycling that have naturally high hematocrit levels?
 11 A. Correct.
 12 Q. And there are exemptions that you can apply
 13 for in the Tour to get a dispensation because you're
 14 naturally going to test at or above the 50 percent
 15 level?
 16 A. Correct.
 17 Q. And there are some -- I don't know who the
 18 particular cyclists are, but there are some out there
 19 that, in fact, have obtained those exemptions?
 20 A. True.
 21 Q. Given that your hematocrit level as measured
 22 in '91 was 48.8 during any Tour de France from '99 to
 23 2005, do you ever seek to apply for some exemption on
 24 the occasion that it being so close to 50 you might
 25 test higher than 50 naturally?

Page 1434

1 A. No. You wouldn't -- you wouldn't have
 2 received it. The only riders who received those are
 3 athletes who were born and raised in altitude,
 4 Columbians, et cetera, who consistently test 52, 53.
 5 This would not, I don't think if -- would have been
 6 anywhere near that possibility.
 7 Q. Now, you described for us your career in the
 8 early 1990s and I believe that you joined the Motorola
 9 team and I'm -- I guess, in the '92, '93 time period.
 10 In connection with being a member of the Motorola
 11 team, did you ever hear about -- from the team about
 12 the use of or the existence of EPO?
 13 A. Within the team discussed about the
 14 possibility for us or did I read it in the paper or
 15 see it on TV?
 16 Q. Just -- did you ever as being a professional
 17 cyclist on the Motorola team did there come a time
 18 when you heard about that there was this drug or
 19 process called EPO?
 20 A. Well, I read the newspaper so I, of course,
 21 knew about that.
 22 Q. Well, was there ever a subject of discussion
 23 on the team?
 24 A. I mean, it's -- for example, there was an
 25 article in the paper that morning and we had breakfast

Page 1435

1 together and we discussed the article. To that
 2 extent, yes. To the extent that we should start a
 3 team wide program of doping, absolutely not.
 4 Q. Now, you know that in connection with David
 5 Walsh's book, which was published in 2004, he recounts
 6 a story from Mr. Swart regarding when he was on the
 7 Motorola team?
 8 A. Yes.
 9 Q. You're generally familiar with that, are you
 10 not?
 11 A. Generally.
 12 Q. But you have not read through Mr. Walsh's
 13 book in it's entirety?
 14 A. Unlike Mr. Bandy, I don't speak French. I
 15 can't read it either.
 16 Q. Okay. Let's --
 17 A. But much of it has been translated.
 18 Q. All right. I believe that.
 19 Let's confirm a couple of facts. First,
 20 Mr. Swart was, in fact, a member of the Motorola team?
 21 A. Yes, he was for a year.
 22 Q. For about a year.
 23 And during that same time period Frankie
 24 Andreu was also a member of the Motorola team?
 25 A. Yes.

Page 1436

1 Q. And in connection with -- with that team
 2 membership, is it true that you and Mr. Swart and
 3 Mr. Andreu had a discussion regarding the use of EPO
 4 while riding a bike?
 5 A. Not to my recollection, no.
 6 Q. Not to your recollection. Did the subject of
 7 EPO ever come up with Mr. Swart that you can remember?
 8 A. No.
 9 Q. Mr. Andreu?
 10 A. No -- well, I lived with Mr. Andreu for a
 11 while, so if -- again, if you read the article in the
 12 morning and you talk about it at breakfast, I can't
 13 guarantee that never happened. But the conversation
 14 of whether or not we should undertake a program,
 15 absolutely not.
 16 Q. Were you aware and discussed with Mr. Swart
 17 and Mr. Andreu the fact that other teams were using
 18 EPO and gaining an advantage?
 19 A. The articles would have been about
 20 speculation about that, so we could have -- we could
 21 have talked about that article. But at the time, of
 22 course, we had no evidence of what anybody was doing
 23 or not doing and certainly didn't know if it was
 24 performance enhancing or not.
 25 Q. Well, you have described -- at least in

Page 1437

1 Mr. Walsh's book it's attributed to you as describing
 2 the Motorola team as white as snow.
 3 A. Uh-huh.
 4 Q. Did you, in fact, describe the Motorola team
 5 that way?
 6 A. Pretty -- pretty innocent, yes. We -- we
 7 were -- we were a fair and ethical team.
 8 Q. Yesterday in connection with testimony that
 9 will be shown to the panel Mr. Swart acknowledged that
 10 he, himself, used EPO while a member of the Motorola
 11 team. Were you ever aware of that?
 12 A. No, sir.
 13 Q. Is there any reason that you can think of as
 14 you sit here today why Mr. Swart would lie about
 15 talking to you about starting an EPO program?
 16 A. Well, I can't think of a reason, other than
 17 he was paid perhaps, like other sources in the book.
 18 Q. Other than that, you don't know of any
 19 personal grudge he has against you?
 20 A. No, I don't know.
 21 Q. You haven't even had contact with him, I bet,
 22 since the -- the early 1990's?
 23 A. No.
 24 Q. And he hasn't -- until Mr. Walsh published
 25 these allegations in 2004, Mr. Swart had never sought

Page 1438

1 to publish or say publicly what he told Mr. Walsh,
 2 fair?
 3 A. If you tell me that, I believe it.
 4 Q. Well, were you aware prior to Mr. Walsh's
 5 book coming out that Mr. Swart had ever said that you
 6 and he had discussed instituting an EPO program?
 7 A. Not that I recall.
 8 Q. Now, you attended Betsy Andreu's deposition,
 9 but you did not attend Frankie Andreu's deposition.
 10 Have you had an opportunity to review that deposition?
 11 A. No.
 12 MR. HERMAN: Which one?
 13 MR. TILLOTSON: Frankie Andreu's
 14 deposition.
 15 MR. HERMAN: Oh, okay. You mentioned
 16 both of them and I didn't know which one you were
 17 referring to.
 18 Q. (BY MR. TILLOTSON) I'm going to show you --
 19 you're aware that Mr. Swart alleged that Mr. Andreu
 20 was part of these conversation?
 21 A. I'm aware of that.
 22 Q. Okay. Now, the way Mr. Swart described it is
 23 that you were going on a post race ride that would be
 24 just sort of a relaxing casual ride. Did such a thing
 25 actually happen?

Page 1439

1 A. Right after the race?
 2 Q. Not immediately after but, say, the day after
 3 the race.
 4 A. We ride almost every day.
 5 Q. And that it was during this ride that there
 6 was discussion while you were riding bikes?
 7 A. Okay.
 8 Q. Okay. Now, I know you dispute the
 9 conversation took place, but will you at least confirm
 10 for us that conversations and there was talking
 11 amongst the team members during such a ride?
 12 A. I will confirm that we ride every day, we do
 13 sometimes ride together, and if we do ride together,
 14 we talk.
 15 Q. Now, let me show you and I'll put in front of
 16 you and I'll ask Ms. Evora to bring up a portion of
 17 Mr. Andreu's deposition on page 44 where I asked him
 18 regarding this same thing.
 19 A. I can look at it up here.
 20 Q. Okay. I'm going to direct your attention to
 21 page 44, line 22. Mr. Andreu says, I can remember
 22 there was a general tone about kind of stepping up,
 23 meaning in training and possibly maybe even
 24 participating, maybe taking EPO, to help in racing
 25 because there were many riders that were doing it at

Page 1440

1 the time, but there was never like a group discussion
 2 or it was just a general feeling. Do you see that?
 3 A. I do.
 4 Q. Is that accurate? Is that what happened?
 5 A. You know, as we discussed earlier, you have
 6 20 to 25 guys there. I was never party to that
 7 conversation. If it took place -- I'm not calling
 8 Frankie a liar, but there -- there are many other
 9 people he could have had that talk with.
 10 Q. Well, was there a general feeling on the
 11 Motorola team, as you recall, that they needed to step
 12 up their training, including taking EPO?
 13 A. You know, 19 -- for me personally, '95 was a
 14 good year, I was riding very well, I was successful in
 15 spring, I was -- I won the Tour DuPont, won a stage in
 16 the Tour de France. I had no reason to panic and to
 17 resort to that. It's not as if anybody was pulling
 18 the fire alarm. I certainly wasn't pulling the fire
 19 alarm. I felt great.
 20 Q. Now, during -- can you place for us during
 21 this time frame if you had begun your affiliation or
 22 relationship with Dr. Ferrari?
 23 A. It would have -- it would have been -- yeah,
 24 we would have been -- no, in -- in the spring of '95?
 25 Q. Yes.

Page 1441

1 A. No, not in the spring of '95.
 2 Q. When did you begin your affiliation with
 3 Dr. Ferrari?
 4 A. We were -- it would have been off season of
 5 '95.
 6 Q. Now, while were we are on the subject of --
 7 well, let me complete it with respect to this
 8 particular matter.
 9 Is there any reason that you can think of
 10 for Frankie Andreu to lie about the testimony that
 11 he's given here in his deposition regarding a general
 12 feeling?
 13 A. As I said, I don't mean to call him a liar,
 14 but if there was a conversation with a guy -- another
 15 person or a few other people and I wasn't there, I
 16 can't say that that was -- that he's telling the truth
 17 or telling a lie.
 18 Q. Okay. Fair enough. Now, Mr. Swart says
 19 that -- that he began EPO in -- later in connection
 20 with a race in a hotel room along with Dr. Max Testa
 21 and that the riders, including yourself, were
 22 measuring their hematocrit level. Do you recall such
 23 an occurrence happening?
 24 A. If the team doctor came in to do an official
 25 team blood test, that's happened, yes.

Page 1442

1 Q. Do you know the actual machine that measures
 2 the hematocrit level?
 3 A. No. I suspect he would have taken it off to
 4 a lab.
 5 Q. Okay. Is there a machine that can be in the
 6 hotel room or there with the team that can measure it
 7 that you don't have to go to a lab to do?
 8 A. There is -- there are portable machines, much
 9 like UCI has, but we didn't have one.
 10 Q. So then it is not true Mr. Swart says that
 11 you were in a room with Dr. Max Testa, not in a lab
 12 somewhere, and were measuring your hematocrit level
 13 after or in connection with the race?
 14 A. Couldn't be true.
 15 Q. He says that the riders that were all being
 16 tested had hematocrit levels above 50. Do you recall
 17 if any riders for the Motorola team tested with
 18 hematocrit levels above 50?
 19 A. No.
 20 Q. And certainly not yourself?
 21 A. Certainly not myself.
 22 Q. Now, I noticed also in connection with your
 23 book that one of the things you wrote about was
 24 that --
 25 ARBITRATOR LYON: When did they start

Pages 1439 to 1442

Page 1443

1 testing hematocrit?
 2 THE WITNESS: '97.
 3 ARBITRATOR LYON: Okay.
 4 MR. TILLOTSON: Well, testing in
 5 connection with the Tour or just generally
 6 scientifically able to test?
 7 THE WITNESS: The cycling authorities
 8 showing up doing the test in the morning?
 9 ARBITRATOR LYON: That's what I was
 10 talking about.
 11 MR. TILLOTSON: Okay, thank you.
 12 Q. (BY MR. TILLOTSON) I mean, prior to in this
 13 1995 time period, the racing officials weren't
 14 measuring your hematocrit level as a condition to
 15 being able to race, correct?
 16 A. Correct.
 17 Q. And there wasn't any known test for EPO
 18 during that time period, correct?
 19 A. Correct.
 20 Q. I notice in your book, also, you wrote about
 21 the win of the triple crown race and the million
 22 dollar bonus in your book. You're obviously aware,
 23 because Mr. Herman asked you regarding those
 24 allegations. Is it -- is Mr. Swart just making it up
 25 that he was approached by you and another team member

Page 1444

1 from the Motorola team to lay off and not attack in
 2 exchange for some cash?
 3 A. You know, he has to be making it up, because,
 4 number one, it was a hard course and it's not so much
 5 an issue to lay off. There wouldn't have been the
 6 possibility to follow. And the thing that really
 7 strikes me about that testimony is that the very
 8 director of his team, who would have known quicker
 9 than anybody and would be responsible to Coors Light
 10 as to why or why not their athletes were doing such
 11 things or not doing such things would have been Lynn
 12 Petijohn, and he never saw that. So I know nothing
 13 about that. Lynn Petijohn, the director of his very
 14 own team, knows nothing about that, the only person
 15 who knows anything about that is Stephen Swart.
 16 Q. Well, would you agree with me that until that
 17 allegation was published in David Walsh's book that it
 18 had never public -- you had never been publicly
 19 accused of seeking to affect the outcome of the triple
 20 crown race by Mr. Swart?
 21 A. I don't know. There could have been -- there
 22 could have been talk of that. It was a lot of money,
 23 so -- such as in the situation here. I mean, when the
 24 money is on the line, there's a lot of great stories
 25 that come out.

Page 1445

1 Q. Okay. Now, I want to turn -- we are in the
 2 '95 time period. I want to turn to the '96 time
 3 period in connection with certain allegations that
 4 have been made. You are obviously aware as published
 5 in Mr. Walsh's book regarding an incident that took
 6 place in an Indiana University conference room, we
 7 call it a hospital room, but --
 8 A. It was in a hospital.
 9 Q. Okay. First, let's -- let's confirm a few
 10 facts. You don't -- you agree that on a Sunday there
 11 was a group of people in a room at the Indiana
 12 University Hospital watching football?
 13 A. True.
 14 Q. And that in that room was some combination of
 15 Frankie and Betsy Andreu?
 16 A. According to Betsy, yes.
 17 Q. Well, do you -- do you recall Frankie and
 18 Betsy being there?
 19 A. At some time, absolutely. As I said
 20 earlier -- I mean, I recall a constant stream of
 21 friends and family over the couple of months that I
 22 was there. You know, I can't pinpoint on every given
 23 day who was coming in and out, but -- and I do recall
 24 the room. I do recall that we needed a bigger room
 25 because there was a lot of people, and I recall that I

Page 1446

1 was constantly accompanied by three people, that's a
 2 consistent thing that I know, because I needed them to
 3 be there for me. You know -- look, I don't want to
 4 tell you that they were or weren't there. I mean --
 5 Q. Let me ask you about that and if you want to
 6 defer to Mr. Stapleton, I'll understand that, but you
 7 seem to recall Mr. Stapleton being there in the room,
 8 but I haven't seen any public statement by
 9 Mr. Stapleton refuting the charges in Mr. Walsh's book
 10 saying he was physically present there and it didn't
 11 happen. Do you know if such a statement has ever been
 12 issued by Mr. Stapleton?
 13 A. Not that I know of.
 14 Q. Now, two people have testified and the panel
 15 will hear Frankie Andreu, a former teammate of yours,
 16 and his wife, Betsy Andreu, testify that in connection
 17 with that particular incident you acknowledged to a
 18 medical professional that you had used performance
 19 enhancing drugs in the past; you're aware of those
 20 allegations?
 21 A. I'm aware, yes.
 22 Q. Now, according to your medical records, which
 23 we were given access to, on October 28th was the day
 24 you started chemotherapy after your brain surgery. Do
 25 you recall if there were any medical professionals who

Page 1447

1 visited you on the 27th to discuss and talk to you
 2 regarding starting your chemotherapy?
 3 A. Not that I recall.
 4 Q. Now, I believe you said in your deposition
 5 and -- I asked you then and I'll ask it here in these
 6 proceedings, why Betsy Andreu would lie about a
 7 serious thing as your supposed admission of
 8 performance enhancing drugs, and I believe your
 9 response was that she doesn't like you. Is that fair?
 10 A. Well, I think my response was and that was at
 11 the deposition she looked me right in eye and she
 12 said, oh, no, I hate him, which is -- is a little
 13 different than I just don't like him.
 14 Q. It was --
 15 A. It was venomous.
 16 Q. All right. Venomous, okay.
 17 Is it your testimony, then, that she --
 18 she's making the story up and she must be doing it out
 19 of dislike, hate, venom for you.
 20 A. That's right, yes.
 21 Q. And her husband, of course, has corroborated
 22 the story?
 23 A. I understand that.
 24 Q. And he doesn't hate you, does he?
 25 A. I don't know. I don't think so. He --

Page 1448

1 there's something there with his -- as I told you --
 2 and I love how you isolated that in the prehearing
 3 brief -- to protect his old lady, but there's
 4 something there with that relationship that I'm not
 5 real clear on.
 6 Q. Well, I think you told me in your deposition
 7 that you didn't really know Betsy that well?
 8 A. Well, I learned early on that I didn't want
 9 to get to know her very well.
 10 Q. Now, you'll agree with me that prior to
 11 Mr. Walsh's book coming out there had never been any
 12 public statement from Frankie or Betsy regarding this
 13 particular story, in a newspaper or magazine or
 14 television station that you're aware of?
 15 A. Not that I'm aware of.
 16 Q. And, in fact, if you actually look at the
 17 book, Mr. Walsh's book, they -- he doesn't -- they
 18 don't actually confirm it for Mr. Walsh in the book,
 19 do they?
 20 A. I didn't read the book.
 21 Q. Let me show you, if you'll look at Exhibit 25
 22 there in front of you, Mr. Armstrong, the blue binder
 23 there.
 24 ARBITRATOR FAULKNER: Is that Plaintiff
 25 or Defendant?

Page 1449

1 MR. TILLOTSON: I'm sorry, Respondants'
 2 Exhibit 25.
 3 Q. (BY MR. TILLOTSON) If you'll turn to page
 4 SCA 1384 and Mariela will bring it up here. At the
 5 bottom there --
 6 MR. TILLOTSON: If you'll blow that
 7 paragraph up there, Mariela, where we tried to --
 8 Q. (BY MR. TILLOTSON) It says, were you present
 9 in the consultation room with Frankie Andreu, your
 10 husband to be, Chris and Paige Carmichael, Stephanie
 11 McIlvain, Lisa Shiels, and Lance admitted in front of
 12 his doctors that he's used performance enhancing
 13 drugs? A long pause. Betsy are you there? I have no
 14 comment to make on this point. Ask your question of
 15 Lance not to me. And she repeats, I told you I have
 16 no comment to make about that.
 17 Do you see that?
 18 A. I see that.
 19 Q. And so in the actual book, as reported, you
 20 would agree with me that Ms. Andreu did not take the
 21 opportunity to confirm this in writing -- or -- I'm
 22 sorry --
 23 A. She said in her deposition that she told him.
 24 Q. Okay. But will you agree with me that in the
 25 book, at least, it's published that she did not

Page 1450

1 publicly say and confirm this story, she said no
 2 comment?
 3 A. Well, if I read this on the paper, I will
 4 definitely agree with you. But I was in the
 5 deposition and she flat out said that she told him.
 6 Q. Now, when -- when -- first, if you could
 7 identify a couple of other people. Ms. McIlvain we're
 8 going to hear about more later. She works for Oakley,
 9 for whom you are -- a company for whom you are an
 10 endorsed athlete?
 11 A. Yes.
 12 Q. And Chris Carmichael is the coach you
 13 referred to a little while ago and that's his wife,
 14 Paige?
 15 A. Correct.
 16 Q. And Lisa Shiels was at the time whom?
 17 A. My girlfriend.
 18 Q. Okay. Now, when this book came out and this
 19 particular story came out in connection with the 2004
 20 Tour de France you know that Mr. Stapleton and
 21 Mr. Knaggs went to Mr. Andreu and attempted to discuss
 22 him -- discuss with him about this particular matter,
 23 correct?
 24 A. I'm aware of that now.
 25 Q. You say you're aware of that now. It's true,

Pages 1447 to 1450

Page 1451

1 is it not, that you actually called Frankie Andreu and
 2 told him that Mr. Stapleton and Mr. Knaggs are going
 3 to come talk to you about this?
 4 A. I mean, if you tell me I did -- it's in the
 5 middle of the Tour and -- so it's frantic and hectic
 6 and I can't remember everything. I wouldn't be
 7 surprised by that.
 8 Q. If you'll -- and you also now know that you
 9 didn't know at the time that Mr. Andreu recorded the
 10 conversation, correct?
 11 A. Correct.
 12 MR. HERMAN: Could you refer to which
 13 conversation?
 14 MR. TILLOTSON: I'm sorry, fine point.
 15 Q. (BY MR. TILLOTSON) The conversation that was
 16 then had, Mr. Stapleton and Mr. Knaggs went to see
 17 Mr. Andreu in connection with the 2004 Tour de France
 18 and they talked to him about this Indiana University
 19 Hospital incident in Mr. Walsh's book, correct?
 20 A. Correct.
 21 ARBITRATOR LYON: Which exhibit are you
 22 referring to?
 23 MR. TILLOTSON: I'm now going to turn to
 24 Exhibit 24, Respondent's Exhibit 24.
 25 Q. (BY MR. TILLOTSON) You were at the

Page 1452

1 deposition when the tape was produced and you know a
 2 transcript was produced as well; is that right?
 3 A. Well, I was there when she produced this.
 4 Q. Okay. If you'll -- if you'll -- if you'll
 5 turn first to the last page, which is page 7, they're
 6 just numbered with handwriting there, there is a
 7 discussion with -- and F is Frankie Andreu and B is
 8 either Bill Stapleton or Bart Knaggs. And there's a
 9 discussion there in those lines, it's beginning with
 10 the part that says, you know, from Frankie. You know,
 11 it's just bad, because when Lance gets pissed off and
 12 I'm sure he's pissed off at me and he talks to you
 13 guys and he talks to the team and then all of the
 14 sudden I'm, like, freaking the evil guy, and for
 15 nothing. I haven't done nothing. Do you see that?
 16 A. I do see it.
 17 ARBITRATOR LYON: Where is it?
 18 ARBITRATOR FAULKNER: What page?
 19 MR. TILLOTSON: I'm sorry, page 7, the
 20 very end of page 7.
 21 ARBITRATOR FAULKNER: Okay.
 22 MR. TILLOTSON: Page 7, the last page of
 23 the transcript, the end of the conversation.
 24 Q. (BY MR. TILLOTSON) It looks like Mr. Knaggs
 25 or Mr. Stapleton says, that -- he's not doing that.

Page 1453

1 He asked if he could talk to you. It sounds to me
 2 like -- and Mr. Andreu interrupts and says, no, he was
 3 super. I mean, that's right, he was super nice. You
 4 know, he was fine, he was perfect, he was like normal
 5 Lance. I believe that's you. And they said, yeah,
 6 fun go lucky. I appreciate you calling me up just to
 7 say you guys were going to come by and talk to me,
 8 giving me a warning, but I'm just saying that, which
 9 is good, which I appreciate you know, because like
 10 again, I feel like I'm the one getting, freaking,
 11 scapegoated here. Do you see that?
 12 A. I see it.
 13 Q. And so, does this refresh your recollection
 14 that you, in fact, called Mr. Andreu and said
 15 Mr. Stapleton and Mr. Knaggs are going to come by and
 16 talk to you about this book?
 17 A. As I said, I have no -- no problem confirming
 18 that. I don't remember it happening, but, you know,
 19 it's in the middle of the Tour so I don't see that
 20 there's anything wrong with that.
 21 Q. Okay. In your deposition when I asked you if
 22 you asked Mr. Stapleton and Mr. Knaggs to go out, you
 23 said not to your recollection.
 24 A. Right.
 25 Q. Do you recall that?

Page 1454

1 A. Right.
 2 Q. Now, they go talk to Frankie Andreu regarding
 3 this, and will you agree with me that one of the
 4 purposes of this was to try and get information that
 5 would undercut the credibility of what Mr. Walsh had
 6 written about with respect to the University of
 7 Indiana Hospital room?
 8 A. No, I think it was -- I think we were all
 9 curious and questioning David Walsh's credibility. So
 10 this would not have been the only conversation they
 11 went out and had.
 12 Q. Prior to Mr. Walsh's book coming out had
 13 anyone ever publicly said, that you were aware of,
 14 that you had admitted to your doctors at the hospital
 15 that you used performance enhancing drugs?
 16 A. Not that I'm aware of.
 17 Q. So when this came out, this would have been
 18 the first time you ever heard anyone allege this; is
 19 that fair?
 20 A. Yeah.
 21 Q. Now, if you'll look at page 3, and if you'll
 22 go down a little bit at the top, it begins with, I
 23 mean, 'cause -- I mean, 'cause.
 24 MR. TILLOTSON: If you'll blow up that
 25 top part of that -- keep going -- there you go.

Page 1455

1 Q. (BY MR. TILLOTSON) The last line of that
 2 blow up Frankie says -- above that he says, 'cause I
 3 never told anybody about the hospital room, you know.
 4 Mr. Stapleton or Mr. Knaggs says, right. Frankie
 5 says, I mean, 'cause hospital -- you know, I don't
 6 know -- hospital room happened, but I've never told
 7 anybody because, you know, if David Walsh's book for
 8 me -- what does this shit accomplish? It accomplishes
 9 nothing. And then Mr. Stapleton or Mr. Knaggs
 10 answers, yeah. Do you see that?
 11 A. I see it.
 12 Q. Now, will you agree with me that Mr. Andreu
 13 is in effect saying that the allegations regarding
 14 what took place in the hospital room did, in fact,
 15 happen?
 16 A. Well, he said in his deposition that as well.
 17 Q. Is there any reason you can think of why
 18 Mr. Stapleton and Mr. Knaggs, particularly
 19 Mr. Stapleton who apparently was there, isn't
 20 disputing, confronting or denying that as Mr. Andreu
 21 says this?
 22 A. Well, I don't know. He wasn't there to
 23 challenge Frankie or to take him on. However, I do
 24 know that Bill is here and you're going to have the
 25 opportunity to ask him. And, you know, our opinion is

Page 1456

1 that it never happened.
 2 Q. Well, surely Mr. Stapleton came back and told
 3 you that Mr. Andreu was in outer space because he's
 4 saying this thing that obviously didn't happen?
 5 A. No, he didn't actually.
 6 Q. Okay. Now, if you'll turn to page 5. Page
 7 5. And if you'll go down to the middle where Frankie
 8 says, so -- and nobody has been bothering her. So --
 9 and nobody has been bothering her. Do you see that --
 10 A. I see that.
 11 Q. -- on page 5?
 12 A. Uh-huh.
 13 Q. Mr. Andreu's says, so -- and nobody has
 14 bothering her. And the thing is I have fucking
 15 protected Lance for a long time. Not -- I mean, not
 16 talking about it every interview I give. Do you see
 17 that?
 18 A. I see it.
 19 Q. What is Mr. Andreu protecting you from,
 20 Mr. Armstrong?
 21 A. I have no idea. You know, he comments or
 22 commentates for Outdoor Life so that could be
 23 anything. He could say, Lance is a great teammate
 24 when he doesn't think that I am. He could be saying
 25 Lance is a good guy when he doesn't think I am. I

Page 1457

1 don't know.
 2 Q. In connection with Mr. Walsh writing his
 3 book, did you talk to or apply any pressure to
 4 Mr. Andreu to make sure that Betsy Andreu didn't say
 5 things that would hurt you?
 6 A. Well, this statement was untrue. So it was
 7 in our interest to confirm or get people to confirm
 8 that it was not true. Betsy and Frankie clearly
 9 believe it was different. Everybody else in the room
 10 will confirm and believes that it never happened. We
 11 have asked them did it happen. They say no. So it's
 12 natural that we would go to Frankie or to Betsy and
 13 ask them to confirm that it didn't happen.
 14 Q. Were you part of the effort to ask
 15 Ms. McIlvain for a statement denying these
 16 allegations?
 17 A. No.
 18 Q. That was Mr. Stapleton?
 19 A. I believe so.
 20 Q. Now, in connection with -- in connection with
 21 the depositions that were being taken, as I recall,
 22 Mr. LeMond was deposed -- Greg LeMond, in this case,
 23 in -- in mid October of last year, and Mr. LeMond
 24 certainly discussed certain allegations and things he
 25 had heard, including something about the Indiana

Page 1458

1 University Hospital room. Are you aware of that?
 2 A. And just so -- just so I'm clear, Jeff, I
 3 just want to be clear. This is the same hospital room
 4 three days after brain surgery and in a group of
 5 friends and family in front of a football game to
 6 doctors that nobody can identify. This is the
 7 conversation that we had in Betsy's deposition where
 8 she couldn't pinpoint Einhorn, Nichols, Shapiro,
 9 anybody else in the room -- the key doctors. I
 10 want -- I just want to make sure it's the same room.
 11 Q. Well, of course you know which conversation
 12 I'm talking about.
 13 A. So we are talking about the --
 14 Q. Oh, yes.
 15 A. Okay.
 16 Q. Yes. I mean --
 17 A. So this was just a random doctor, that same
 18 incident?
 19 Q. Isn't it true you -- that you and
 20 Mr. Stapleton have been taking efforts to attempt to
 21 undercut the veracity of this story for quite sometime
 22 now?
 23 A. The story is not true. We are making efforts
 24 to confirm that it's not true.
 25 Q. Did you, in fact, call James Startt, the

<p style="text-align: right;">Page 1459</p> <p>1 reporter, the night before his deposition? 2 A. Yes. 3 Q. And you only knew that Mr. Startt was going 4 to be deposed because you had been told he was going 5 to contradict Ms. McIlvain's testimony? 6 A. No. No, I don't -- I don't know why he was 7 being deposed. 8 Q. And you called Mr. Andreu before his 9 deposition, correct? 10 A. Sure. 11 Q. And one of things you told him was, hey, I'm 12 going to get people to deny this hospital room story, 13 correct? 14 A. No, we didn't need to get them. We already 15 had them. It never happened. 16 Q. That's one of the things you -- 17 A. And I don't want that to be confused with 18 threatening like has been done over here. I called as 19 friendly and as honestly and as openly as I could be. 20 Just to say, listen, there's a lot of stuff going on 21 here. I just want to make sure that we are all on the 22 up and up. I don't want anybody -- you're obviously 23 expected to appear and speak honestly, but you don't 24 need to come in and tell lies either. 25 Q. Okay.</p>	<p style="text-align: right;">Page 1461</p> <p>1 Q. Okay. Now, I want to turn to -- to a 2 different issue. Move off the Indiana Hospital 3 incident. I want to talk about Dr. -- 4 A. Can I say one thing real quick? 5 Q. Of course. I'll give you the opportunity to 6 say anything you want out of fairness. 7 A. A donation like this takes a lot of time and 8 a lot of thought and there was a major process. This 9 is not a spontaneous one time, hey, let's cut the 10 check to somebody that we hardly know. This was -- 11 there was a lot of thought. This may be the date that 12 this was issued, but -- but the time that -- anywhere 13 in this deposition, as I said earlier, under Tim's 14 questions, Dr. Einhorn, he's too legendary to go there 15 on this. I don't think -- this is a man, the highest 16 standard. You don't -- you're not the president of 17 ASCO for taking payoffs, ever. That's as prestigious 18 as it gets in the world of American oncology, so I 19 just want to be clear about that. 20 Q. Okay. 21 A. Thank you. 22 Q. I want to talk about Dr. Ferrari. Did 23 Dr. Ferrari come to see you while you were ill at the 24 Indiana University Hospital? 25 A. No.</p>
<p style="text-align: right;">Page 1460</p> <p>1 A. So I -- and I'm not -- I'm not trying to 2 speak out of place here, but I'm not -- they were not 3 threatening calls at all. 4 Q. All right. Now, while these depositions were 5 ongoing, I believe that the Andreus' depositions 6 actually -- Betsy and Frankie actually took place on 7 October 25th of 2005. During that exact same time 8 period, it's true, is it not, that that is when your 9 foundation made the decision and the public 10 announcement to endow a chair at the Indiana 11 University Hospital? 12 A. I'll believe it if you tell me it was then. 13 Q. Okay. 14 A. It was recently. 15 Q. If you'll take a look at Respondent's 16 Exhibit 39, and I took this from your web site, your 17 press release announcing it, and this announces that 18 the Lance Armstrong Foundation is establishing an 19 endowed chair in oncology at Indiana University, and 20 it is Thursday, October 27; is that correct? 21 A. Correct. 22 Q. And just to place this in context, Mr. LeMond 23 had been deposed a little before that and the Andreus 24 were deposed on October 25th, fair? 25 A. Fair enough.</p>	<p style="text-align: right;">Page 1462</p> <p>1 Q. Now, prior to 2001, had you ever issued a 2 press release or public statement at which you had 3 disclosed your relationship with Dr. Ferrari? 4 A. No. But I don't issue statements. I respond 5 to questions and allegations. 6 Q. Because I -- I actually was able to obtain 7 the -- I wasn't, Mr. Bandy was able to obtain the 8 CycleSport magazine that Mr. Herman showed that 9 disclosed or talked about Dr. Ferrari training you in 10 1998. This is a -- there's a magazine called 11 CycleSport. Is this -- do you know if this is a 12 European publication? 13 A. It's British, it's printed -- published here, 14 too. 15 Q. Okay. Now, I'm going to hand you the 16 original, because one of the things I noticed that 17 wasn't in the copy that I got, and I'll let your 18 lawyer handle it is, that in this particular issue you 19 actually write a column; is that right? 20 A. Yes. 21 Q. Okay. And you'll agree with me in connection 22 with your column that you wrote for CycleSport there 23 and in any other column you wrote prior to 2001, you 24 never disclosed your relationship with Dr. Ferrari, 25 fair?</p>

Page 1463

1 A. Fair.
 2 Q. Now, in the actual article that discloses
 3 your relationship with Dr. Ferrari, it's not about you
 4 at all, is it?
 5 A. I can't -- I don't know. Where is it?
 6 Q. It's the article we just read.
 7 A. Right.
 8 Q. That article is from this magazine.
 9 A. Okay.
 10 Q. I got the original and here's the actual --
 11 this is the actual article; is that right? It's about
 12 Mr. Rominger?
 13 A. Okay.
 14 Q. And at the very end of that article, will you
 15 agree with me, that the article says that Ferrari
 16 trains other people, including yourself?
 17 A. Right.
 18 Q. Now, in addition, would you agree with me
 19 that when you wrote your book, It's Not About the
 20 Bike, you did detail many of your training routines,
 21 including the work going to the USOC but never once
 22 mentioned Dr. Ferrari in your book?
 23 A. Yes. And as I said in the deposition, that's
 24 just the risk of writing books. Sometimes you can't
 25 write about everybody and surely they're upset.

Page 1464

1 Q. But you would agree with me that Dr. Ferrari
 2 probably had the single biggest impact on you of the
 3 people left on the cutting room floor of this book,
 4 fair?
 5 A. That wouldn't be a fair statement. But I
 6 don't want to go through who got left on the cutting
 7 room floor.
 8 Q. I won't ask.
 9 But this was -- took you through the '99
 10 Tour. You also -- the one I have includes a chapter
 11 on the 2000 Tour and the Olympics and that chapter
 12 still didn't disclose or mention that your -- you had
 13 this training relationship with Dr. Ferrari, fair?
 14 A. Right.
 15 Q. And, in fact, you didn't tell people publicly
 16 that you were -- had a training relationship with
 17 Dr. Ferrari until you realized that David Walsh was
 18 going to write an article about it?
 19 A. No, that's not true.
 20 Q. Isn't it true that you and Mr. Stapleton were
 21 contacted in 2001 by David Walsh regarding having some
 22 questions that led you to believe that he was going to
 23 write about your relationship with Dr. Ferrari?
 24 A. He asked questions about that in the
 25 interview, so it's obvious that, you know, if you ask

Page 1465

1 the question in the interview, that's potentially
 2 going to be in the article. It was -- it was
 3 interesting when I did call James Startt we talked for
 4 a long time and --
 5 Q. Hang on. I'll let Mr. -- I'm trying to get
 6 you done.
 7 A. Okay. Sorry.
 8 Q. I'll let Mr. Herman ask you about your
 9 conversations with Mr. Startt.
 10 A. Okay.
 11 Q. Well, do you dispute that Mr. Gorski, in
 12 fact, said that you guys got together and sought to
 13 preempt David Walsh's story by, in effect, telling
 14 some other magazine about your relationship with
 15 Dr. Ferrari?
 16 A. No, there were -- Pierre Bergonzi from La
 17 Gazzetta dello Sport was coming over for an interview.
 18 He asked the question. If I'm asked that question in
 19 any interview, like I did to David Walsh and like I
 20 did to others in the past who chose not to write about
 21 it, I answered the question fairly and honestly.
 22 MR. TILLOTSON: If you'll bring up,
 23 Mariela, Mr. Gorski's deposition on page 81. If
 24 you'll go to line 7, page 81, stop --
 25 Q. Mr. Gorski says that Lance -- the year I'm

Page 1466

1 forgetting, I think it was 2001, I was at seven or
 2 eight, so forgive my memory lapse. There was an
 3 article that was going to be coming out written by
 4 David Walsh, I guess in the Sunday Times in London or
 5 whatever, that he was -- that David Walsh was going to
 6 disclose this relationship with Dr. Ferrari and Lance
 7 decided that it was prudent to communicate to the
 8 cycling press that and explain to them what this
 9 relationship was. I asked him, to preempt the story
 10 in effect? And he answered yes. Isn't it true that's
 11 what happened?
 12 A. Well, you know, that might be Mark's
 13 impression of it and I respect that. However, I gave
 14 the interview to David Walsh in -- and I don't know
 15 when it was, quite sometime before that and he asked
 16 the question so I had to -- and listen I know David
 17 Walsh and I know that he loves that stuff, so if I'm
 18 going to answer the question I wouldn't be surprise by
 19 a stunner or stinger at the beginning of the Tour de
 20 France. That's his style. So, you know, there was no
 21 panic on our part. And it had been written before and
 22 I had the been working with Dr. Ferrari and a lot of
 23 people knew that.
 24 Q. Well, you are aware that Mr. Gorski, when he
 25 learned that you had a relationship with Mr. Ferrari,

Page 1467

1 expressed his concern about that, right?
 2 A. As I said in the deposition, I wasn't aware
 3 of that, but you told me that.
 4 Q. When -- now, when is the first time that you
 5 made it publicly known that your relationship with
 6 Dr. Ferrari extended back to the mid '90s as opposed
 7 to 1999 or 2001?
 8 A. I don't remember.
 9 Q. When you first --
 10 A. I'm sorry. It would have been -- it must
 11 have been in the La Gazette article because Pierre
 12 asked us that.
 13 Q. When you first began talking about your
 14 relationship with Dr. Ferrari, did you -- isn't it
 15 true that you attempted to downplay how often you saw
 16 Dr. Ferrari and what his relationship was with your
 17 team?
 18 A. I don't think so. I don't think that's -- I
 19 don't think that's fair.
 20 Q. Because when you testified earlier today, I
 21 heard you talk about Ferrari being part of the team,
 22 an advisor to the team. And, in fact, Mr. Gorski
 23 issued a statement in 2001 saying that Dr. Ferrari
 24 didn't have any official relationship with this team,
 25 correct?

Page 1468

1 A. Right. And I didn't -- and if I said he's an
 2 advisor to the Discovery team, I would have misspoke.
 3 Q. And, in fact, you never recommended,
 4 according to your testimony, that any other team
 5 members go see Dr. Ferrari, correct?
 6 A. I recommended that they train smart.
 7 Q. But, in fact, several team members did go see
 8 Dr. Ferrari, correct?
 9 A. Mr. Livingston -- I know Kevin Livingston
 10 did.
 11 ARBITRATOR LYON: How much longer?
 12 MR. TILLOTSON: If we can take a short
 13 break, I can figure out and give you --
 14 ARBITRATOR LYON: I've got to make a
 15 call.
 16 ARBITRATOR FAULKNER: Why don't we take
 17 like a five -- a quick five-minute break?
 18 (Recess 5:03 p.m. to 5:15 p.m.)
 19 ARBITRATOR FAULKNER: We are going to go
 20 back on the record.
 21 All right, Mr. Tillotson, please proceed
 22 again.
 23 MR. TILLOTSON: Mariela if you'll bring
 24 up page 42 of Mr. Armstrong's deposition. Page 42.
 25 Q. (BY MR. TILLOTSON) Now, beginning with

Page 1469

1 line 11, I asked you in your deposition: Okay, fair
 2 enough. How frequently did you go see Dr. Ferrari
 3 between the '99 and 2003 time period.
 4 You answered: Not very often.
 5 Question: Okay. A few times a year, six
 6 times a years, maybe ten times a year.
 7 You answered: Maybe a few times a year.
 8 Do you see that?
 9 A. Uh-huh.
 10 Q. It's true, is it not that you would go see
 11 Dr. Ferrari for -- both during the preseason and in
 12 connection with the racing season as frequently as
 13 once a month?
 14 A. Sure. I wouldn't say go see him. Either he
 15 would come to Gerona or to Nice or -- or I would go to
 16 Italy.
 17 Q. You met in various places with Dr. Ferrari as
 18 frequently as once a month during the season?
 19 A. Well, if I'm at home, I didn't go see him
 20 anywhere, but, yeah, I did it.
 21 Q. And during the race -- the actual Tour de
 22 France you would talk to him every day?
 23 A. No, absolutely not.
 24 Q. So if Mr. Coyle reported that in his book,
 25 that would be incorrect?

Page 1470

1 A. That we speak every day?
 2 Q. Yes.
 3 A. That would be incorrect.
 4 Q. Close to every day, at least?
 5 A. That would be incorrect.
 6 Q. Would you see him six to eight weeks before
 7 the Tour?
 8 A. I would be -- six to eight weeks before the
 9 Tour I would be in St. Moritz training at altitude,
 10 and he would be there with his daughter and other
 11 athletes as well. Of course, St. Moritz in the
 12 summertime is an endurance athlete's mecca, cyclists,
 13 runners, triathletes, all season skiers, speed
 14 skaters, a lot of athletes are there.
 15 Q. Mr. Coyle reports at page 114 of his book, if
 16 I approach, he says, in addition, Armstrong called
 17 Ferrari most nights of the Tour to go over his
 18 performance and talk about it the next day; is that
 19 inaccurate?
 20 A. To me that is inaccurate, yes.
 21 Q. In addition, Mr. Coyle, in his book there at
 22 the pages I've marked for you --
 23 A. And I'm not saying there is anything wrong if
 24 I had. Certainly there wouldn't have been calls every
 25 night. I have to disagree, yes.

Page 1471

1 Q. Okay. He played a significant role in your
 2 training, fair?
 3 A. He was -- he was -- he's a very smart man.
 4 He is an advisor and somebody that we rely upon. I'm
 5 not going to deny that now. We have never denied
 6 that. I can't say much more than that. I can't tell
 7 you the frequency that I called, the frequency that we
 8 saw each other. It's kind of all I can give you.
 9 Q. And, in fact, his role is so central to your
 10 training at the time that one of the things that
 11 Mr. Coyle does in his book is contain a debate among
 12 your various advisors and coaches as to who's more
 13 important, Michele Ferrari or Chris Carmichael,
 14 correct?
 15 A. Correct.
 16 Q. Now, to have such an important advisor as
 17 part of your team you obviously would want to make
 18 sure that that advisor is someone who complies with
 19 the rules of the sport, fair?
 20 A. Of course.
 21 Q. And that he's someone that doesn't condone or
 22 promote doping in any way, fair?
 23 A. Of course.
 24 Q. Did you investigate or are you aware of any
 25 actions taken against Mr. Ferrari in the 2000 or 2001

Page 1472

1 time period by any regulatory agencies?
 2 A. No. I mean, we -- again, we covered this in
 3 the deposition. I'm not exactly aware of when he came
 4 under scrutiny, but for us, we knew that that was a
 5 frenzied time, as it is still over there, where there
 6 are many people who are brought under suspicion and
 7 are under investigation. We decided to let the
 8 process play out. We never saw anything to lead us to
 9 believe that he was dirty. And out of fairness to him
 10 and out of fairness to who he was, we said we will
 11 just let the process play out.
 12 Q. Well, were you aware of any regulatory action
 13 taken against Mr. Ferrari by Italian officials?
 14 A. Back then or --
 15 Q. 2000 or 2001.
 16 A. No.
 17 Q. Were you aware of any -- any sanctions
 18 imposed against Mr. Ferrari by any Olympic Committee
 19 in Italy?
 20 A. I wouldn't have -- I wouldn't have had any
 21 way of knowing unless it was in the American press or
 22 in the English speaking press.
 23 Q. Well, you could have asked him, right?
 24 A. I could have asked him a lot of things that I
 25 didn't. I would have no reason to know that.

Page 1473

1 Q. Surely for an advisor as important as
 2 Dr. Ferrari who has what you have admitted here as a
 3 dodgy reputation, you want to ensure that he has
 4 not -- hasn't be sanctioned or penalized by, say, for
 5 example, any Italian agency, correct? You would want
 6 to know that?
 7 A. I'm -- I'm just telling you it never came to
 8 mind. I didn't read it anywhere.
 9 Q. Now, one of the things that was testified to
 10 in these proceedings is that you would sometimes see
 11 Ferrari at a particular race in like a camping car; is
 12 that accurate?
 13 A. No. There was one episode there where either
 14 in Dan's book or Betsy's deposition where it was
 15 relayed that on the way to Milan-San Remo and we met
 16 in a -- in a mobile home that he has.
 17 Q. When you say we, only you would go in there.
 18 For example, Frankie Andreu or other team members
 19 would not going in there?
 20 A. No, but I was in there for a brief meeting,
 21 check body fat and body composition and 15 minutes
 22 later we are gone. But I understand the insinuation
 23 that I went in and got doped up the day before
 24 Milan-San Remo. I've heard that, but that's not what
 25 happened.

Page 1474

1 Q. Now, if you'll look at Respondent's Exhibit
 2 30, in this blue binder, Respondent's Exhibit 30.
 3 This is an e-mail that you sent to Mike Anderson right
 4 before the beginning of the 2004 Tour de France; is
 5 that right?
 6 A. Uh-huh.
 7 Q. And I want to focus on the third to last
 8 line, tests are good (even Shumi is psyched) and we
 9 are all ready to go for six. Do you see that?
 10 A. I see that.
 11 Q. Shumi is a nickname for Michele Ferrari?
 12 A. True.
 13 Q. And the tests you're referring to are these
 14 tests that Mr. Ferrari does for you; is that right?
 15 A. Yes.
 16 Q. And you signed the e-mail LA, which is
 17 normally how you sign your e-mails; is that right?
 18 A. How do you know? I'm just kidding. Yes,
 19 that's how I sign them.
 20 Q. You would be surprised?
 21 A. You're right.
 22 Q. Okay. Now, Mr. Andreu testified in his
 23 deposition that at one point you showed him some pills
 24 that you took during a race and talked about when you
 25 would take them. Have you seen that testimony?

Page 1475

1 A. I have not seen it, but I heard about it.
 2 Q. You were asked in your deposition by
 3 Mr. Herman and I don't think we heard an explanation
 4 for what those pills were. Do you know what those
 5 pills were?
 6 A. Did we cover that? I think we did go back
 7 and cover it, but, I have to confess, I'm -- if you
 8 want a confession, I'm a bit of a coffee fiend.
 9 That's the extent of my performance enhancing drugs.
 10 Q. Is it your testimony that those pills were
 11 caffeine pills?
 12 A. That's my testimony. And I --
 13 Q. You would have taken several caffeine pills
 14 during intervals of a race?
 15 A. Yeah, which are, to the panel, not banned --
 16 well, they are banned to a certain degree, but I
 17 would -- I certainly would never approach that level.
 18 Q. Now, in earlier 2005, there was an article
 19 that ran in L'Equipe sporting journal in France that
 20 you're aware of, right?
 21 A. Right.
 22 Q. And what they did was they disclosed or wrote
 23 an article about what they claim were some positive
 24 test results of you; is that right?
 25 A. That's correct.

Page 1476

1 Q. Now, this has been described as a research
 2 project by some people from Mr. Herman, but the some
 3 people that did the research project was, as you know,
 4 a WADA accredited lab, correct?
 5 A. For now.
 6 Q. Okay. Well as we sit here today, it's a WADA
 7 accredited lab, correct?
 8 A. Correct.
 9 Q. Correct?
 10 A. Correct.
 11 Q. And that same lab -- WADA accredited lab has
 12 performed many other tests on you in the Tour de
 13 France which at various times you have referred to
 14 publicly as indicating that you're a clean rider
 15 because you passed these tests, that same lab?
 16 A. The same lab that used standard protocol with
 17 an A and a B sample, yes.
 18 Q. I'm going to have you turn, if you would, to
 19 Exhibit 44 -- Respondent's Exhibit 44, and if you'll
 20 turn through the first couple of pages?
 21 MS. EVORA: I'm sorry?
 22 ARBITRATOR FAULKNER: How many pages?
 23 MR. TILLOTSON: The first four.
 24 Q. (BY MR. TILLOTSON) You'll see what's called
 25 Federation Francaise de Cyclisme, control form?

Page 1477

1 MR. HERMAN: What's the Exhibit Number?
 2 MR. TILLOTSON: 44.
 3 MR. HERMAN: 44?
 4 MR. TILLOTSON: Yes. We are looking at a
 5 series here of forms.
 6 Next page.
 7 Q. (BY MR. TILLOTSON) Are these called control
 8 forms?
 9 A. That -- they could be called that.
 10 Q. Okay. Well, tell me what are we looking at.
 11 What are these?
 12 A. These would be similar to the forms you would
 13 sign when you went to the control, so, yes, control
 14 forms.
 15 Q. And the purpose is that this is what's given
 16 in connection with a urine specimen that you may give
 17 for purposes of testing, correct?
 18 A. Correct.
 19 Q. Okay. And this is to show that it is
 20 actually your sample being given?
 21 A. It is -- this is -- this would be similar to
 22 the form you would fill out, yes.
 23 Q. Now, the lab that might do the testing, let's
 24 talk just first generically, wouldn't get this form,
 25 they would get the specimens with numbers?

Page 1478

1 A. I have no idea. There are a few forms. I --
 2 honestly I don't know where they go.
 3 Q. Have you seen these particular forms before?
 4 These are the forms reported by L'Equipe Magazine.
 5 Have you seen them before?
 6 A. Right. I think you even showed these in a
 7 deposition, otherwise I saw them on the Internet in
 8 and around that time.
 9 Q. In your review of these forms in connection
 10 with this particular matter, do you deny or dispute
 11 that these are not your forms?
 12 A. I certainly will not confirm that they're my
 13 forms.
 14 Q. Is there some reason why you can't confirm
 15 your signatures on the forms and the handwriting?
 16 A. Well, you know, with multiple generations of
 17 this form with my signature, which is readily
 18 available, I can't tell -- I can't confirm that that's
 19 my form.
 20 Q. Okay. The matter reported by L'Equipe
 21 Magazine regarding the positive results that they
 22 reported is currently under investigation by the UCI,
 23 is it not?
 24 A. Yes.
 25 Q. And it's currently under investigation by

Page 1479

1 WADA, is it not?
 2 A. I'm not sure about that.
 3 Q. Well, weren't you asked to give some
 4 information to WADA in connection with their
 5 investigation?
 6 A. Well, WADA openly and publicly stated they
 7 don't have jurisdiction, so I don't know if I've been
 8 asked to give any information. We have encouraged the
 9 UCI investigation and we have helped as much as
 10 they've asked to us help.
 11 Q. Do you recall if you were asked to be --
 12 given a questionnaire and asked to give information by
 13 WADA in connection with this particular matter?
 14 A. Perhaps my lawyers received that.
 15 Q. But you haven't -- to your knowledge, you
 16 haven't given any information to WADA regarding this?
 17 A. I haven't been asked any information. And as
 18 I said, I don't know if they're handling it or not,
 19 but as Mr. Pound said from the very beginning, it's
 20 impossible for them to rule or be involved, they were
 21 not in existence then and they don't have
 22 jurisdiction. And as you know -- of course, after
 23 this book we had a conversation with Mr. Pound and he
 24 proceeded to tell us that he doesn't really know what
 25 the WADA code says. So it was difficult for us to get

Page 1480

1 anywhere with WADA from the get-go.
 2 Mr. Pound doesn't believe in the A and B
 3 sample. He believes that the A sample is enough. If
 4 it's positive, throw the keys away. Lock them up.
 5 When we have those type of conversations, I mean,
 6 there's not a ton of cooperation in WADA.
 7 Q. You've had some rocky relations with WADA,
 8 have you not, with Mr. Pound?
 9 A. No. I've asked Mr. Pound to be fair and open
 10 and honest and somewhat respectful of what cycling has
 11 done over the years. I think -- I mean, I'm sure we
 12 will see the testimony, cycling has done more than any
 13 endurance sport to fight doping. I've -- that's what
 14 I've asked Dick to do is just acknowledge that there
 15 could be a problem. Let's get the cheaters, punish
 16 them hard. But you have to recognize that no sport
 17 has done what cycling has done.
 18 Q. You have not brought legal process against
 19 L'Equipe, as we sit here today?
 20 A. Not yet. We still have time.
 21 Q. And you are aware that the director of the
 22 Tour de France, Jean-Marie Leblanc, has expressed
 23 doubts based upon what L'Equipe has reported, correct?
 24 A. I've read that, but I've also talked to him.
 25 Q. Now, one of the things that I asked you in

Page 1481

1 your deposition, there seems to have been some
 2 confusion about it with some other witnesses was -- if
 3 you'll give me a second.
 4 MR. TILLOTSON: If you'll bring up
 5 page 117 of Mr. Armstrong's deposition, Mariela.
 6 Q. (BY MR. TILLOTSON) Page 117, line 5, I asked
 7 you, okay, is it your belief that in connection with
 8 earning the bonuses from Tailwind through winning the
 9 Tour de France that you believe you had to comply with
 10 the rules of the Tour de France in order to earn those
 11 bonuses. And you answered, you have to comply with
 12 the rules. Do you see that?
 13 A. I do.
 14 Q. And you agree with that, to be eligible for
 15 any bonuses from Tailwind or for SCA you have to
 16 comply with the rules of the Tour de France?
 17 A. To stand on the top step on the final day you
 18 have to comply with the rules. If you break the
 19 rules, you're disqualified. So, yeah, of course, I
 20 believe that.
 21 Q. And the TDF rules with respect to performance
 22 enhancing substances incorporate the UCI rules,
 23 correct? That's what we would look --
 24 A. UCI is the governing body, the Tour de France
 25 is the promoter.

Page 1482

1 Q. And if a title was to be stripped -- let's
 2 not talk about you, but with respect to the Tour de
 3 France, it would be the UCI and/or the National
 4 Regulatory Agency like UCI, or do you know?
 5 A. I have no idea.
 6 Q. Now, you would agree with me that if there
 7 was positive test results as reported by L'Equipe,
 8 that that would be a serious allegation of doping
 9 requiring further study, wouldn't you?
 10 A. Well, and that's why they're doing the
 11 independent investigation.
 12 Q. But under the standards you set out for us in
 13 your statement about any allegations of doping should
 14 be studied in detail, you would agree that what was
 15 reported by L'Equipe certainly falls into that
 16 category?
 17 A. I just -- I want -- again, I hate to repeat
 18 myself, but I want to be clear and if you'll allow me
 19 to repeat myself, I will. The system has been in
 20 place an awful long time and the tests come and go and
 21 they evolve and the doctor here will tell us how this
 22 is the greatest test in the world. They perfect these
 23 tests over the years, but that's not the point. The
 24 tests are tests, but the system and the process and
 25 the protocol is standard and that can't change. The

Page 1483

1 system must be based on trust and this system has no
2 trust and that's what I told Mr. Pound at the time. I
3 said, listen, you have set yourself back ten years.
4 There is no athlete that can go and urinate in a cup
5 now and be confident that it's not going to be
6 sabotaged.
7 And when I don't have anything to defend
8 myself with -- listen, if we had a C and a D and an E
9 sample, we could have this discussion, but I've got
10 nothing, Jeff. The system has broke down and that's
11 the system of trust. And the first thing that has to
12 happen is the athlete -- the athlete must put their
13 faith and trust in that system. They want to compete
14 hard, they want to compete clean, and when they go for
15 testing, they want to know that it's safe, and there's
16 no way that they can say that now, no way. And
17 they've been coming for years -- man, they've been
18 coming for years after me. And this may be -- they
19 may say oh, we got it. They didn't.
20 Q. You would agree with me that it -- that you
21 would not accept from another cyclist a defense, if
22 you knew that cyclist was, in fact, engaging in doping
23 activity a defense that he had not been caught; that
24 would not be a defense that you would accept from that
25 cyclist, true?

Page 1484

1 A. No. But nor would -- nor would you accept
2 the defense that -- let's say, for example, I was
3 second in the 2004 Tour de France and we said, but we
4 know the guy who won was cheating and we open an
5 arbitration about that; would you accept that?
6 Q. I'll ask my clients.
7 A. I doubt they would. Well, they like to
8 change the rules of game so you never know.
9 MR. TILLOTSON: That's my last question.
10 I'll take your request under advisement. Pass the
11 witness.
12 MR. HERMAN: Just a few questions for
13 Mr. Armstrong.
14 RE-DIRECT EXAMINATION
15 BY MR. HERMAN:
16 Q. You talked about the off season. Would that
17 be beginning generally in September, October through
18 December, something like that?
19 A. Well, I mean, I get criticized because my off
20 season is a little longer and I don't race enough, but
21 typically the off season would roughly be October
22 until November or January -- December or January.
23 Q. So when you -- when you had your first
24 consultation with Dr. Ferrari it was after the '95
25 racing season?

Page 1485

1 A. Correct.
2 Q. There was talk about your weight as recorded
3 in Dr. Coyle's study and so forth; that weight was
4 November '99?
5 A. Correct.
6 Q. So you had been on the fried chicken circuit
7 since you won the Tour in July?
8 A. I'm allowed. You finish the Tour skinny and
9 you have to eat. As I said in the medical records, I
10 allow myself a few beers every now and again.
11 Q. But it wouldn't be unusual for you during the
12 off season to gain 10 to 15 pounds of body weight?
13 A. Well, it's -- we are early January now, we
14 can bring a scale in now and I'll get on it now. It
15 would be roughly the same -- same idea. We had
16 Christmas which changes things, but it's going to be
17 80, 81 kilos today. I finished the last Tour de
18 France in late July, so that's not -- that's not going
19 to be any different. And I don't -- you know, I
20 haven't started training.
21 Q. Thank you. And let's say just for example
22 you talked about this being the first of January,
23 during the 2005 Tour you would have ridden at
24 approximately what?
25 A. I always used anywhere from -- I would love

Page 1486

1 to have started every Tour at 72 or 72 and a half that
2 was the dream, and I never really did, perhaps got
3 down to that weight, but generally if I saw low 74s, I
4 would be happy.
5 Q. So -- I mean, assuming you go to 80, that
6 would be a difference of 12, 13 pounds?
7 A. Yes, which is a lot, because it's easy to put
8 on.
9 Q. Not for us fat guys it's not, but --
10 A. Whatever. It's hard to take off. You know
11 how that it is.
12 MR. BREEN: He said you know how that
13 goes.
14 MR. HERMAN: I'm not paying near close
15 enough attention there, but...
16 THE WITNESS: For all the money you
17 charge, you better pay attention, boy.
18 MR. HERMAN: Pipe down about that.
19 Q. (BY MR. HERMAN) Mr. Tillotson asked you
20 about Respondent's Exhibit 30.
21 MR. HERMAN: Could you put that up,
22 Russell?
23 Q. (BY MR. HERMAN) This e-mail to Allison
24 Anderson, Mike Anderson's wife.
25 A. Right.

Page 1487

1 Q. That was sent apparently June 28, 2004, right
2 before the commencement of the 2004 Tour.
3 A. Right.
4 Q. Okay. Now, you go down there and you -- it
5 says, tests are good. What tests are you referring
6 to?
7 A. Physiological tests, climbing tests.
8 Q. And you -- and Mr. Tillotson I'm sure not in
9 an intention -- with no sinister intention indicated
10 that Shumi was a code name for Dr. Ferrari?
11 A. Right.
12 Q. Who's the -- who's the lead -- who's the
13 number one driver for the Ferrari formula one team?
14 A. Michael Schumacher.
15 Q. And has Ferrari been referred to as Shumi for
16 some years because of that?
17 A. Has Michael Schumacher been referred to as --
18 Q. No, has Ferrari been referred to --
19 A. Well, they call Michael Schumacher Shumi,
20 so...
21 Q. But it has to do with the Ferrari --
22 A. Yes. Nothing sinister.
23 Q. Yeah.
24 And incidentally, the -- what --
25 Respondent's Exhibit 30 isn't the entire e-mail, is

Page 1488

1 it?
2 MR. HERMAN: May I approach, Your Honor?
3 ARBITRATOR FAULKNER: Yes, you may.
4 A. I don't know. Is there more?
5 Q. (BY MR. HERMAN) Yes. I don't have -- I
6 don't have additional copies of this, but...
7 MR. TILLOTSON: What is it? What are you
8 showing?
9 ARBITRATOR FAULKNER: Would you show it
10 to opposing counsel, please?
11 MR. HERMAN: Pardon me?
12 ARBITRATOR FAULKNER: Would you show it
13 to counsel so he knows what it is?
14 MR. TILLOTSON: I would request that it
15 be made an exhibit, because I don't -- it's from the
16 Anderson case so long as you --
17 MR. HERMAN: Right.
18 Q. (BY MR. HERMAN) Anyway, let me show you
19 Exhibit 32 to Mr. Michael -- Mike Anderson's
20 deposition. I'll just read this, your e-mail is dated
21 June 28 and was in response to an e-mail notifying you
22 that the Andersons had moved, correct?
23 A. On what day?
24 Q. That was June 22.
25 A. Okay.

Page 1489

1 Q. Okay. Then you replied on June 28th and then
2 you're aware that Mr. Anderson has said that he found
3 something that he didn't know what in your apartment
4 in Spain in February of 2004, correct?
5 A. Correct.
6 Q. Now, four and -- you know, four and a half
7 months later on June 30, this e-mail from
8 Mr. Anderson's wife says, and I'll read it because we
9 don't have additional copies, we're loving it out
10 here. Mike is just about 15 minutes to your place.
11 Brand new house, ah. We will be watching and routing
12 you on. Can you feel the love? Kick ass. I forgot
13 how to say that in French. Allison.
14 Did I read that correctly?
15 A. Okay.
16 MR. HERMAN: If Your Honor would please,
17 we will mark that as Claimants' 121 and then, of
18 course, provide copies to the panel in the morning.
19 ARBITRATOR FAULKNER: Any objection?
20 MR. TILLOTSON: None at all.
21 THE COURT: It's admitted as 121 and we
22 will expect copies tomorrow.
23 MR. HERMAN: I think it's -- what exhibit
24 is this, this article, again, do you know?
25 Respondent's 34 -- 54. Respondent's 54.

Page 1490

1 Try that. There it is.
2 Q. (BY MR. HERMAN) Go to the third to last
3 page, it's the picture of Mr. Rominger training on a
4 track with Dr. Ferrari doing the scientific -- there
5 you go. If you focus on the left column, the second
6 paragraph, the last line -- the last sentence reads,
7 since his controversial comments over the use of EPO
8 in 1994, Ferrari's profile has become lower but he
9 still trains a string of stars, including Ivan Gotti,
10 Cipollini, the entire ONCE team and American, Lance
11 Armstrong.
12 Is there -- in 1998, there was no secret
13 about the athletes that were trained by Dr. Ferrari,
14 including yourself, correct?
15 A. Correct.
16 Q. Now, finally, if you would look at -- hang on
17 a second -- Respondents' Exhibit 24.
18 ARBITRATOR FAULKNER: Did you say 24 or
19 34?
20 MR. HERMAN: 24.
21 ARBITRATOR FAULKNER: Thank you.
22 Q. (BY MR. HERMAN) If you would focus on this
23 first, right at the very top. Frankie Andreu says
24 when David Walsh called the first time I called up
25 Lance and told him, because Lance said -- Lance told

Page 1491

1 me specifically to talk. Did you ever prevent anyone
 2 from speaking with Mr. Walsh in --
 3 A. No. I -- in fact, I encouraged Frankie to
 4 talk to him.
 5 Q. And if you go down about the fifth to the
 6 last line on that page -- on the first page, yeah.
 7 Were you aware that Mr. Andreu called David Walsh a
 8 liar in connection with the conversations about his
 9 wife, Betsy?
 10 A. I was aware of that.
 11 Q. Did you -- have you ever, Mr. Armstrong, ever
 12 waived in your unqualified support for stringent
 13 drug testing and penalties?
 14 A. Never.
 15 Q. And have you several years ago published an
 16 open letter to Dick Pound about that topic encouraging
 17 a uniform and stringent control and enforcement
 18 program?
 19 A. Exactly. The people who are -- who are
 20 doping, yes.
 21 Q. And you are aware, at least, of the news over
 22 the last couple of days that the cyclist union has
 23 threatened to sue Dick Pound because of his
 24 intemperate comments and painting with a broad brush?
 25 A. I'm aware of that.

Page 1492

1 Q. You mentioned --
 2 A. Could I -- as well as, you know, I think the
 3 job is an important job, I think there could almost
 4 not be a more important job, but Mr. Pound paints that
 5 brush a lot. I mean, a month ago it was the NHL and a
 6 third or a half of the hockey players in the NHL were
 7 all doped up, according to him. I've always
 8 encouraged Dick to just -- let's get away from that.
 9 Let's not shoot with a shotgun. Let's get specific.
 10 Let's get the guys. But you can't say an entire sport
 11 is polluted when that's not true. And, again, I'm
 12 sure the NHL wasn't very tickled, either.
 13 Q. You mentioned -- you mentioned that you would
 14 have no hesitation in recommending to your son, Luke,
 15 that if that's what he chose to do that he take up
 16 cycling?
 17 A. Uh-huh.
 18 Q. Do you do that with a clear conscience, with
 19 the knowledge that he could succeed, he could be a
 20 champion with hard work and without any pharmaceutical
 21 assistance?
 22 A. With that in mind, absolutely one hundred
 23 percent. There are other factors, because I raced
 24 with Eddie Mercer's son and I see there's other
 25 pressures. But putting my son into a place that would

Page 1493

1 be dangerous or unhealthy or harmful or unethical, I'm
 2 not going to do that.
 3 MR. HERMAN: I'll pass the witness.
 4 MR. TILLOTSON: No further questions.
 5 ARBITRATOR FAULKNER: Any questions from
 6 the tribunal?
 7 ARBITRATOR CHERNICK: No questions.
 8 ARBITRATOR LYON: I have a couple.
 9 I want to ask you to look at Respondents'
 10 Exhibit Number 44. That's those sheets that L'Equipe,
 11 or whatever the name of that newspaper over there in
 12 France, they have the cyclist sign at the bottom. Go
 13 to -- go to where the -- if you would, if you could
 14 look at those pages and look at the bottom of those
 15 pages. Look at the first one, and is that -- if you
 16 look through all of those, those signatures don't
 17 appear to be the same to me, the Ls are different as
 18 they get bigger, the circles, right there. You can
 19 see the difference.
 20 Would those signatures be your signatures
 21 supposedly, is that where the athlete signs, those two
 22 places down there?
 23 THE WITNESS: I mean, here it says
 24 signature of athlete, so --
 25 ARBITRATOR LYON: And it's supposed be --

Page 1494

1 then you have to sign again to get a copy, I think, or
 2 something? I don't know what that is, but the -- did
 3 they --
 4 THE WITNESS: Bandy?
 5 ARBITRATOR LYON: Do the signatures
 6 appear to be different?
 7 THE WITNESS: There's a lot of them
 8 there.
 9 ARBITRATOR LYON: Well, I'm looking at
 10 the Ls and the A leans one way one -- on one of them
 11 and it leans another way on another one. Do those
 12 appear to be your signature?
 13 THE WITNESS: Yeah. I mean, they're --
 14 ARBITRATOR LYON: But does your signature
 15 differ that much? Go to the last one. Look -- right
 16 there. That's -- go back one.
 17 THE WITNESS: Well, I don't know, sir. I
 18 mean, I sign my signature a lot, so -- I try to keep
 19 it consistent, but...
 20 ARBITRATOR LYON: Okay. How much water
 21 do you consume in like a long tour? How much does --
 22 how much water do you drink? Like what's the longest
 23 tour --
 24 THE WITNESS: A stage?
 25 ARBITRATOR LYON: The longest stage of

Page 1495

1 the Tour de France.
2 THE WITNESS: 150 miles.
3 ARBITRATOR LYON: How much water will an
4 average bicyclist --
5 THE WITNESS: It all depends on the
6 temperature. If it's really hot, it would be -- it
7 would be an absurd amount of water. We've run out of
8 water in the car, the team car.
9 ARBITRATOR LYON: And how do you get rid
10 of -- how do you go to the bathroom when you're
11 riding.
12 THE WITNESS: Right off the side of the
13 bike.
14 ARBITRATOR LYON: Okay.
15 THE WITNESS: We can bring some pictures
16 of that, too.
17 ARBITRATOR LYON: Okay. You said it's --
18 I mean do you drink a gallon?
19 THE WITNESS: No, no, gallons.
20 ARBITRATOR LYON: Gallons?
21 THE WITNESS: Yeah, because most bikes --
22 my bike has two water bottle cages, so what's a
23 bottle, a bottle is a --
24 MR. STAPLETON: 750 milliliters.
25 THE WITNESS: So a liter and a half. I

Page 1496

1 mean, you're going through who knows what, anywhere
2 from 15 to 20 bottles on a big day.
3 ARBITRATOR LYON: Now, this --
4 THE WITNESS: Of course, some of that is
5 going over the top of your head on your body.
6 ARBITRATOR LYON: All right. Now, this
7 Judge Chateau that did this analysis of the -- I
8 think it was the '99 allegations.
9 THE WITNESS: 2000.
10 ARBITRATOR LYON: 2000. Did she issue a
11 report or anything like that?
12 THE WITNESS: I don't know. I mean --
13 MR. STAPLETON: She just dismissed it.
14 ARBITRATOR LYON: Okay. I don't have any
15 other questions. Thank you very much for your
16 testimony.
17 ARBITRATOR FAULKNER: Any other questions
18 from either counsel.
19 MR. TILLOTSON: None from me.
20 MR. HERMAN: None from me, Mr. Chairman.
21 ARBITRATOR FAULKNER: I have none.
22 Thank you very much you may step down.
23 MR. HERMAN: He needs to get back to
24 Austin. I assume he can be excused.
25 ARBITRATOR FAULKNER: Is anybody planning

Page 1497

1 to recall him?
2 MR. TILLOTSON: No, we are not.
3 ARBITRATOR FAULKNER: You're excused,
4 thank you very much.
5 It's about 10 minutes of 6:00. We plan
6 to start tomorrow at 8:00. I know what traffic is
7 like so please be -- you know, use your best efforts
8 to show up here for 8:00 a.m. And if some time
9 tomorrow y'all can tell us whatever y'all's agreements
10 are, because I know you have some other documents to
11 take a look at and then let us know so we can proceed
12 accordingly from there. All right.
13 Anything else either of you all need to
14 bring up?
15 MR. HERMAN: I would just -- I know that
16 3:30 sticks in my mind is that what time we're
17 quitting tomorrow?
18 ARBITRATOR CHERNICK: 3:00.
19 MR. HERMAN: Okay. 3:00.
20 ARBITRATOR CHERNICK: And I'm glad to
21 forego lunch if you need.
22 MR. HERMAN: Okay. Well, no, no, I was
23 just curious, just for my own purposes.
24 ARBITRATOR LYON: I think --
25 MR. HERMAN: I'm told by the experts in

Page 1498

1 order to make it to the airport for a 6:00 flight, if
2 I leave here after 3:00 I'm going to spend the weekend
3 the Dallas.
4 MR. HERMAN: That probably is right.
5 ARBITRATOR FAULKNER: We are off the
6 record.
7 (Proceedings adjourned at 5:51 p.m.)
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 STATE OF TEXAS)
2 COUNTY OF DALLAS)

3
4 I, Nancy P. Blankenship, Certified Shorthand
5 Reporter, in and for the State of Texas, certify that
6 the foregoing proceedings were reported
7 stenographically by me at the time and place
8 indicated.

9 Given under my hand on this the 30th day of
10 January, 2006.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Nancy P. Blankenship, Certified
Shorthand Reporter No. 7351
in and for the State of Texas
Dickman Davenport, Inc.
Firm Registration #312
1010 Two Turtle Creek Village
3838 Oak Lawn Avenue
Dallas, Texas 75219
214.855.5100 800.445.9548
e-mail: npb@dickmandavenport.com
My commission expires 12-31-06.

