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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 SCA PROMOTIONS, INC. and §
11 HAMMAN INSURANCE SERVICES, §
12 INC. §
13 Respondents. §
14
15 ARBITRATION
16 TRANSCRIPT OF PROCEEDINGS
17 JANUARY 16, 2006
18 VOLUME 9
19 CONFIDENTIAL
20
21 On 16th day of January, 2006, at 9:02
22 a.m., the arbitration in the above proceedings came on
23 before Arbitrators Richard Faulkner, Richard Chernick
24 and Ted Lyon, at the offices of Richard Faulkner,
25 12655 North Central Expressway, Suite 810, in the City
of Dallas, County of Dallas, State of Texas.

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1 A P P E A R A N C E S
2 FOR THE CLAIMANTS:
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14 FOR THE RESPONDENTS:
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16 Mr. Cody L. Towns
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18 Suite 1400
19 750 North St. Paul Street
20 Dallas, Texas 75201
21 ALSO PRESENT:
22 Ms. Mariela Evora
23 Mr. Chris Compton
24 Mr. John Bandy
25 Mr. Robert Hamman
Mr. Michael Ashenden
Ms. Lynn G. Bone
Mr. Bill Stapleton
Mr. Lawrence Temple
Ms. Marianne Ross

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2 WITNESS PAGE
3 BILL STAPLETON
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5 CROSS EXAMINATION BY MR. TILLOTSON 1777
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9 MICHAEL ANDERSON
10 DIRECT EXAMINATION BY MR. TOWNS 1966
11 CROSS EXAMINATION BY MR. HERMAN 1986
12 RE-DIRECT EXAMINATION BY MR. TOWNS 2052
13 CLAIMANTS' EXHIBIT
14 90 - 9/3/04 Letter from Temple 1893
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16 110 - 7/21/04 e-mail from L. Shields to 1765
17 B. Stapleton re: ESPN reporter
18 126 - Triple Play Article 1815
19 130 - e-mail string: A. Anderson to LA 1992
20 re: wrapping it up
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22 131 - 12/9/04 Correspondence from Gillespie 1993
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24 132 - 4/21/03 e-mail re: yo 2024
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26 133 - 2/03 e-mails re: apology 2026
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28 134 - 3/03 e-mail re: Congrats 2029
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30 135 - 3/14 e-mail re: shipment 2029
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34 137 - 7/27/04 e-mail re: thanks 2034
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38 139 - 6/30/05 Protective Order re: attendance 2039
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41 RESPONDENTS' EXHIBITS
42 5 - Contract between DFP Cycling and 1878
43 U.S. Postal Service
44 10 - 8/26/02 e-mail from Todd Overton to 1811

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1 this is not insurance
2 23 - Taped conversation between Frankie 1851
3 Andreu, Lance Armstrong and Bart Knaggs
4
5 24 - Transcript of Tape-Recorded 1851
6 Conversation
7 25 - Copy of LA Confidential 1897
8 31 - Notes of Chris Compton re: 1902
9 Investiation
10
11 35 - e-mail from Stapleton to McIlvain 1840
12
13 36 - l'Equipe article 1864
14
15 40 - Article "Paging Dr. Ferrari" 1942
16
17 41 - Judgment from Armstrong v. Times 1902
18 Newspapers, Ltd., David Walsh, Alan
19 English
20
21 54 - Article from Cycle Sport magazine 1923
22 "Rominger closes the file"
23 80 - UCI Rules 1796
24 81 - WADA Rules 1801
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85 - 1/2005 Sports Illustrated article 1795
87 - Feb 2002 Associated Press Article 1816
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88 - CSE Press Release - CSE response to 1887
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90 - "LA response to Ferrari Italian Court 1830
Decision"
91 - Tour de France Rules 1796
93 - News Article re: UCI contribution by 1807
Lance Armstrong
94 - 9/10/04 Compton to Herman 1826

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1 PROCEEDINGS
 2 ARBITRATOR FAULKNER: Why don't we resume
 3 and, Mr. Stapleton, why don't you come back to the
 4 witness stand, please. You're still under oath so I
 5 believe y'all were still in the process of doing
 6 direct.
 7 MR. HERMAN: We were.
 8 ARBITRATOR FAULKNER: Please resume.
 9 DIRECT EXAMINATION
 10 BY MR. HERMAN:
 11 Q. Mr. Stapleton, when we -- to refresh
 12 everyone, when we went off the record on Friday, you
 13 had described this suite, sort of a conference area
 14 that you all were in watching the Cowboy game on
 15 October 27th, 1996. Do you recall that?
 16 A. Yes, I do.
 17 Q. And in addition to the Carmichaels and
 18 Andreus, Ms. Shiels and Ms. McIlvain, you,
 19 Mr. Ochowicz and Mr. Armstrong's mother were in the
 20 room?
 21 A. That's right.
 22 Q. Now, let me just go through briefly with you
 23 a chronology of -- just assume with me Walsh begins
 24 his book in December of 2002, does his research in
 25 2003. I think you testified that the first contact

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1 you had with Walsh was on May 28th, 2004?
 2 A. Actually there was -- he sent a fax to my
 3 office on May 19 or 20 without an e-mail or any phone
 4 numbers or anything, so I spent a few days trying to
 5 e-mail him and reach him at the Sunday Times and this
 6 e-mail -- that was the first e-mail communication we
 7 had was the 28th of May.
 8 Q. I mean, it was the first time you all
 9 actually communicated with each other was May 28th.
 10 A. That's correct.
 11 Q. And that was the first contact from Walsh to
 12 Armstrong, you or Bruyneel or George Hincapie; is that
 13 correct?
 14 A. That's right.
 15 Q. Now, why was it that Walsh gave you a
 16 deadline of June 8th for y'all to respond and provide
 17 Armstrong for an interview or so forth?
 18 A. Well, he was never clear. When he first
 19 contacted me -- David has written articles in the past
 20 and they typically come out the Sunday the Tour de
 21 France starts. The Tour de France always starts on
 22 the first Saturday in July. Typically on the first
 23 Saturday in July David has written an article. So
 24 when he first contacted me, I assumed he was writing
 25 for that deadline.

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1 May 28th is about a week before a big
 2 race in France called the Dauphine, which Lance was
 3 getting ready for. So in our correspondence I was
 4 saying to David, look, we can't do it before the
 5 Dauphine. How about after? And I know your deadline
 6 is probably early July. And you'll see the back and
 7 forth where he says he's going to Euro 2004, which is
 8 the world cup soccer and he's not available. He would
 9 never explain to me why the timing I was suggesting
 10 wouldn't work. It turned out that it got really
 11 obvious around June 6th or 7th, you know, he sent me a
 12 thing that said we had 24 hours, we had one more day,
 13 and at that point we heard through a third party that
 14 he was writing a book and that's why his deadline was
 15 different.
 16 Q. Anyway, between May 28th and the beginning of
 17 the Tour de France, if you're in the Tour de France,
 18 is that a convenient or inconvenient time for a
 19 lengthy interview?
 20 A. Inconvenient.
 21 Q. All right. Well, the Times article comes out
 22 on June 14th?
 23 A. That's right.
 24 Q. And when was the libel case filed in the UK?
 25 A. That week.

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1 Q. So it would have been sometime between the
 2 15th and the 19th of June?
 3 A. Yes.
 4 Q. Then the book -- of course, the Times article
 5 had this recitation of this alleged incident in the
 6 hospital, correct?
 7 A. Yes.
 8 Q. And then the book is published in France
 9 between the 22nd and the 26th, correct?
 10 A. That's right.
 11 Q. I think you testified on Friday that your --
 12 the Walsh radio interview that you spoke to Mr. Andreu
 13 about was on July 4th?
 14 A. Yes, I did, sir.
 15 Q. Now, between June 14th and July 12th, when
 16 you had your conversation with Mr. Andreu, had you
 17 contacted any of the persons who allegedly were in
 18 this room?
 19 A. No. Well, I shouldn't say that. Lance and I
 20 had a conversation about it, and I think Chris
 21 Carmichael and I talked about it at the beginning of
 22 the tour, but I hadn't reached out and tried to
 23 contact people like Frankie.
 24 Q. Now, we --
 25 ARBITRATOR LYON: Let me stop you right

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1 there. Are you over there in France the whole time
 2 the Tour de France is going on?
 3 THE WITNESS: Yes. I typically arrive
 4 the Wednesday before the race starts and I'm there for
 5 the month.
 6 ARBITRATOR LYON: Okay.
 7 Q. (BY MR. HERMAN) We have seen this e-mail
 8 that Lisa Shiels sent you on July 21st. I think
 9 that's Claimants' Exhibit 110, if I'm not mistaken.
 10 This was unsolicited? Had you talked to Ms. Shiels
 11 before July 21st?
 12 A. I hadn't talked to her in years before that
 13 point; probably since '96.
 14 MR. HERMAN: Would you put up
 15 Respondents' Exhibit 35, please, ma'am?
 16 Q. (BY MR. HERMAN) Now, this is an e-mail from
 17 you to Mr. -- I mean to a -- a boomac -- who is
 18 boomac?
 19 A. That's Stephanie McIlvain. That's her e-mail
 20 address.
 21 Q. Now, the date on this is October 2004. Can
 22 you tell the panel what had happened over the previous
 23 couple of days?
 24 A. Well, you'll see that jltemple@onr.com is
 25 copied. That's Lawrence Temple who's sitting right

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1 over there. He's been our lawyer for a long time and
 2 he's now in-house at our company, but back then that
 3 was his law firm. And Lawrence and I had spent time
 4 on the phone that previous week with our lawyers in
 5 London who asked us to reach out to people from the
 6 article, and this would have been specifically about
 7 the alleged hospital room conversation, and see if
 8 they were willing to make witness statements in that
 9 case because there was a hearing in November, I
 10 believe, sort of a Motion for Summary Judgment hearing
 11 in the UK, and that's what we were doing.
 12 MR. HERMAN: Go to the second page,
 13 please, Lynn.
 14 Q. (BY MR. HERMAN) Ms. McIlvain says, I choose
 15 not to make a statement of any kind on this matter.
 16 In the body of your e-mail you say, I hope you'll
 17 reconsider your position. What did you mean by that?
 18 A. Well, when we spoke on the phone, she said
 19 that she didn't want to be involved in any kind of
 20 litigation or involved in anything like a deposition
 21 and I was asking her to reconsider that view.
 22 Q. Okay. Prior to this time had you contacted
 23 Ms. McIlvain in desperation to find someone who would
 24 counter the article?
 25 A. No. We would have had conversations probably

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1 throughout the fall on sponsor related issues, but no,
 2 I hadn't talked to her about this issue until we were
 3 looking for these statements.
 4 Q. Okay. At this -- when was it that you
 5 finally realized what -- when they talked about the
 6 football game and so forth, that it was actually
 7 October 27th and it was during the Cowboys game this
 8 incident allegedly occurred?
 9 A. Well, I realized it after I think Betsy
 10 Andreu and Stephanie McIlvain's deposition and after
 11 Lance's deposition.
 12 Q. So that would have been late fall of 2005?
 13 A. Yes. And when I put it together, I don't
 14 know, I think it was either Stephanie or Betsy that
 15 talked about the brain surgery and then the Cowboys
 16 game and I specifically remembered that point in time,
 17 the brain surgery being on Thursday, Jim Ochowicz
 18 and I trying to take Lance to a Pacers game on, I
 19 believe, Saturday night and then the Cowboys game on
 20 Sunday.
 21 Q. Let me ask you about the circumstances,
 22 was -- I'm going to change topics here with you to
 23 some ex-employees, okay. Mr. Anderson, did he leave
 24 voluntarily or was he terminated?
 25 A. He was terminated.

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1 Q. Ms. O'Reilly?
 2 A. She was terminated by the Tailwind.
 3 Q. Frankie Andreu?
 4 A. He was essentially terminated by Tailwind as
 5 well.
 6 Q. Stephen Swart?
 7 A. He was terminated.
 8 MR. HERMAN: Put up slide 6.
 9 Q. (BY MR. HERMAN) Change subjects again. Now,
 10 these are the misrepresentations which SCA alleges
 11 were made by Tailwind prior to the issuance of the
 12 insurance contract. When is the first time that you
 13 were informed that these were the representations --
 14 or when were you informed that SCA claimed Tailwind
 15 made these particular representations?
 16 A. I think when they issued -- wrote their
 17 pleadings in this case in April of '04, or '05.
 18 Q. April of '05. And did SCA ever make
 19 representations like this -- I mean, did Tailwind ever
 20 make representations of any kind to SCA
 21 A. No.
 22 Q. I believe you testified that you didn't know
 23 who SCA was until 2004 sometime?
 24 A. That's correct.
 25 Q. Were you present at the hearing in Judge

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1 Canales's court on December 20th, 2004?
 2 A. I was.
 3 Q. Based upon your recollection and review of
 4 Respondents' 84, which is the transcript, what is
 5 your view of whether SCA denied the claim during that
 6 hearing?
 7 A. I don't believe they denied claim that day.
 8 Q. Now, you represent not only Mr. Armstrong but
 9 other athletes and entertainers and so forth?
 10 A. That's correct.
 11 Q. Tell the panel what the standard practice is
 12 in your business with respect to non-disclosure
 13 agreements for employees, such as personal assistants,
 14 employees of your company, for example, et cetera,
 15 that have access to personalities?
 16 A. Well, typically there's a provision for
 17 damages that the employee would pay if they later
 18 disclose or disparage the person they're working for,
 19 and the reason for that is many times you'll see
 20 former personal assistants or former -- like in
 21 Lance's case a bike mechanic or someone that will sell
 22 a story to someone like the Star or the National
 23 Inquirer where they might be paid quite a bit of money
 24 for that. So typically there's a pretty hefty
 25 liquidated damages provision in the employment

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1 contract for non-disparagement or disclosure based on
 2 that transaction whether it be a -- which would be a
 3 disclosure to someone who's going to publish it in the
 4 media.
 5 Q. And had Mr. Armstrong's personal assistants,
 6 nannies and so forth all signed similar agreements?
 7 A. They did.
 8 Q. And what is your company's policy with
 9 respect to everyone who works for CSE when they come
 10 on-board?
 11 A. I believe we have in our employee manual a
 12 provision about disclosing secrets or something you
 13 might know about one of our high profile clients.
 14 Q. Now, tell -- you mentioned that Mr. Anderson
 15 got fired. Tell the panel what the circumstances were
 16 surrounding that.
 17 A. Well, Mr. Anderson was engaged to be sort of
 18 an assistant for Lance. He was -- he worked in a bike
 19 shop at the time. So he was a mechanic. He would
 20 drive a car behind Lance when he trained and he would
 21 do various and sundry other things. He became just a
 22 dark cloud and someone that was very difficult and
 23 insubordinate for Lance to deal with, and Lance
 24 terminated him.
 25 Q. And was there -- did you have any analysis

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1 done of the accounting issues or any irregularities
 2 that involved Mr. Anderson?
 3 A. Yeah, during the period in which, you know,
 4 there were -- beginning to have difficulties, Lance
 5 would hear things like he had -- Mike had gone to the
 6 bike shop and bought a bunch of different things on
 7 his card. So we had an accountant do a review of his
 8 use of Lance's funds and there was some amount, 40 or
 9 \$50,000 of money that had been spent that there was no
 10 backup for.
 11 Q. During the -- Mr. Knaggs, I think -- tell the
 12 panel who Mr. Knaggs is.
 13 A. Mr. Knaggs is one of my partners at CSE and
 14 is very involved with specifically the bike team and
 15 things that are related to the professional bicycle
 16 team.
 17 Q. And did Mr. Knaggs actually notify
 18 Mr. Anderson he was terminated?
 19 A. He did.
 20 Q. Prior to notifying Mr. Anderson, was there
 21 any discussion or knowledge about some alleged
 22 discovery that Mr. Anderson had made nine months prior
 23 to that time?
 24 A. No, there wasn't.
 25 Q. When was the first discussion of a discovery

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1 from -- by Mr. Anderson?
 2 A. I believe it was in a meeting with his
 3 lawyers that you and I attended in which his lawyers
 4 said -- they had filed responsive pleadings to a
 5 declaratory judgment we had filed and they had alluded
 6 to secrets that Mike might know about Lance. And then
 7 in the meeting that we were in, they specifically told
 8 us that Mike was going to allege that he found an
 9 anabolic steroid in Lance's medicine cabinet in Spain
 10 after the -- I think -- I think -- after the Tour de
 11 France about nine months prior to that and that if we
 12 didn't settle with them or, in my opinion, pay them
 13 blackmail money, they were going to file a pleading in
 14 which they would -- a public pleading in which they
 15 would make that allegation.
 16 Q. And what was your response to that?
 17 A. That we weren't going to pay blackmail money
 18 and that if they wanted to release that sort of
 19 information and -- that it was fine with us, because
 20 it wasn't true.
 21 Q. And later on they -- they did file those
 22 pleadings and put Mr. Anderson on ESPN and so forth?
 23 A. Yes, they did.
 24 Q. I'm going to switch gears with you again.
 25 Early in August, I think that the testimony has been

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1 that SCA wanted Ms. Price at ESIX to provide to them
 2 test results for Mr. Armstrong during the 2004 Tour de
 3 France?
 4 A. That's correct.
 5 Q. Do you recall that?
 6 A. Yes.
 7 MR. HERMAN: If you put up slide 14,
 8 please, Lynn.
 9 Q. (BY MR. HERMAN) On August 16th, if you'll
 10 look at the bottom there, is that the response from
 11 Christian Varin, the antidoping director of the UCI?
 12 A. Yes, it is.
 13 Q. And that was provided to SCA on August 16th?
 14 A. That's correct.
 15 Q. Did you later determine that in spite of
 16 having provided SCA with that -- with those results,
 17 that SCA took a contrary position publicly?
 18 A. Yes.
 19 Q. Tell the panel what you determined.
 20 A. Mr. Compton was quoted in the USA Today
 21 sometime in September saying that -- I can't
 22 specifically remember exactly, but it was something
 23 like, we have asked for test results, they should be
 24 easy to obtain and they won't provide them or
 25 something to allege that we had been unwilling to

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1 provide evidence of the fact that his test results of
 2 the 2004 Tour de France were clean.
 3 Q. And how -- what was your reaction to that?
 4 A. My reaction to that was I was pretty stunned
 5 to read that. We were, you know, about a month or two
 6 into the sort of tussling about the money that was
 7 owed and I felt like it needed a reaction.
 8 MR. HERMAN: Put up Claimants' 95,
 9 please, Lynn.
 10 Q. (BY MR. HERMAN) This is a letter from me to
 11 Mr. Compton which quotes the USA Today article in the
 12 first paragraph. SCA has requested drug test results
 13 to disprove the allegation that clean test results
 14 that should be easily attainable. As of September
 15 24th, had SCA had the confirmation from the UCI for
 16 over a month?
 17 A. Yes.
 18 Q. Now, you published in Street & Smith
 19 publication an article about which SCA complains in
 20 this -- in this proceeding. Can you recall
 21 approximately when that article was published?
 22 A. I think it ran the week of October 11 to 17.
 23 Q. As of October 11th, had you been paid in full
 24 by CHUBB?
 25 A. Yes.

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1 Q. How much had you been paid by Lloyds out of
 2 the \$2,500,000?
 3 A. 2,250,000.
 4 Q. And they were waiting to collect from one of
 5 the syndicates?
 6 A. Yes, but we had been assured that it was
 7 coming and no reason to believe that it wasn't based
 8 upon the fact that they almost paid all of it. And I
 9 know that SCA -- Jeff has asked me this question in my
 10 deposition, and, you know, in my view that is prompt
 11 payment. If SCA had paid 4,750,000 and Bob Hamman had
 12 called me and said we'll have the other 250 in three
 13 weeks, I certainly would have taken the same position,
 14 which is that's prompt payment.
 15 Q. We have been through this numerous times, but
 16 the -- the Tailwind obligation is fixed and
 17 irrevocable, is it not?
 18 A. That's correct.
 19 Q. To Mr. Armstrong?
 20 A. That's correct.
 21 Q. Is there any basis that you know of that SCA
 22 is entitled to delay or deny or withhold money from
 23 Tailwind in view of Tailwind's obligation?
 24 A. No.
 25 Q. Have you taken the position that SCA cannot

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1 conduct an independent investigation and petition the
 2 governing bodies to do whatever they can do?
 3 A. I think my position and Tailwind's position
 4 has been very consistent here, which is we owe Lance
 5 \$5 million based on him being the official winner of
 6 the Tour de France. SCA owes us \$5 million to
 7 indemnify that liability. They are -- they should
 8 feel as free as they want, as anybody, to go to the
 9 UCI or the Tour de France and investigate or petition
 10 them to change that result, but I can't do anything
 11 about what they -- who they say won the tour. SCA
 12 can't do anything about that and it didn't change the
 13 fact that they're liable for the money. And if some
 14 day that result changes, then they are -- you know,
 15 they can come back to us and/or -- or us and -- that
 16 at that point my position would be that if the results
 17 changed, that Tailwind's obligation to Lance didn't
 18 exist anymore and, therefore, SCA's liability to
 19 Tailwind didn't. But there's nothing any of us can do
 20 sitting right here to change the results of the Tour
 21 de France.
 22 Q. And did Lloyds and CHUBB handle their
 23 responsibility in a way that you believe a reasonable
 24 insurance company and for that matter any reasonable
 25 contracting party would have?

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1 A. I think they did, yes.
 2 Q. And you were present during the hearings in
 3 Judge Caneles's court and if SCA were to take the
 4 position that they never objected to leaving the money
 5 up and never tried to get it back, would that be true
 6 or untrue?
 7 A. That would be untrue.
 8 MR. HERMAN: Pass the witness.
 9 ARBITRATOR FAULKNER: Any questions from
 10 either panel member?
 11 ARBITRATOR LYON: I have some, but I'll
 12 wait until the end.
 13 ARBITRATOR FAULKNER: Cross examination,
 14 please.
 15 CROSS EXAMINATION
 16 BY MR. TILLOTSON:
 17 Q. Good morning, Mr. Stapleton.
 18 A. Good morning.
 19 Q. I want to begin, if I could, by covering just
 20 some basic areas and sort of put the dispute here in
 21 context. You will agree with me that over, let's say,
 22 the last decade or so, there has been a problem with
 23 either allegations or actual use of performance
 24 enhancing drugs in professional cycling?
 25 A. Yes.

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1 Q. And the most -- the pinnacle of that scandal
 2 or problem was the Festina scandal which broke in
 3 1998?
 4 A. I would characterize it as the beginning of
 5 that scandal, but certainly it's a big story.
 6 Q. So we are all in the same context, a member
 7 of one of the cycling teams, Willy Vogt, was found
 8 trying to transport a huge amount of EPO across
 9 country borders?
 10 A. That's correct.
 11 Q. And that started this whole scandal about how
 12 many professional cyclists are actually using
 13 performance enhancing drugs?
 14 A. That's true.
 15 Q. And one of the problems then in '98 and has
 16 continued even to this day is the ability of the
 17 regulatory agencies to catch people doping through
 18 adequate testing means; would you agree?
 19 A. I would agree that there has been a -- you
 20 know, there's always going to be a situation where
 21 the -- the regulatory authority, whether it's WADA or
 22 USADA, is creating new tests to attempt to catch
 23 cheaters and that's what they have been doing.
 24 Q. For example, in '98, '99 and 2000 there was
 25 no test being administered that would catch someone

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1 using EPO, for example?
 2 A. Correct.
 3 Q. And since then, although there's tests for
 4 EPO, you know there are limitations regarding that
 5 testing and its ability to catch people who might
 6 still be using EPO or similar substances?
 7 A. I'm not a scientist. I don't know -- I know
 8 there's been all kinds of questions asked about the
 9 EPO test.
 10 Q. Well, for example, one of the things
 11 Mr. Armstrong said in response to the 1999 test
 12 results that were published by l'Equipe was that there
 13 were questions still regarding the validity of the EPO
 14 tests.
 15 A. There are questions.
 16 Q. Now, in that context -- well, you also know
 17 there are certain other substances that simply can't
 18 be tested for. For example, you know that through
 19 2004 there was no test administered at the Tour de
 20 France to detect the use of growth hormones?
 21 A. I think that's accurate.
 22 Q. Now, let's put that context in this
 23 particular case. There have been, I think, as
 24 Mr. Armstrong alleged to us candidly in his testimony,
 25 suspicions and allegations about Mr. Armstrong and the

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1 possible use of performance enhancing drugs?
 2 A. Yes.
 3 Q. One of the things that has contributed to
 4 them, you'll agree with me, is that prior to 1999
 5 Mr. Armstrong was not really a factor in competing in
 6 the Tour de France?
 7 A. Well, if you're -- if that's a bases for drug
 8 rumors, I think we need to go back and look at Lance's
 9 career and how he developed. He had never been a
 10 factor in the general classification, but everybody
 11 knew that eventually, before he got sick, that that
 12 was where he was headed. He was the youngest, I think
 13 at the time -- the youngest ever stage winner of the
 14 Tour de France. At the time he was the youngest ever
 15 world champion in road cycling and he was developing.
 16 So cyclists typically that win the Tour
 17 de France don't do that until their late 20s.
 18 Q. I appreciate that. I guess I'm asking you to
 19 agree with me that one of the -- one of the
 20 contributions to the allegations regarding Mr.
 21 Armstrong was that he -- he hadn't finished -- he had
 22 not finished three of four Tour de Frances before he
 23 got sick.
 24 After he got sick and came back, he won
 25 seven straight, and some people have raised that as he

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1 couldn't do this but for drugs. Would you agree with
 2 me that that allegation has been out there?
 3 A. I don't agree that -- I think the allegation
 4 is centered more around his -- not that he was on a
 5 linear development curve to potentially win the Tour,
 6 but that he focused on that after -- after he was sick
 7 and won after that. I don't agree with -- maybe
 8 somebody has alleged that. I don't know that.
 9 There's an allegation, of course, that -- there's been
 10 allegations that the chemotherapy and the drugs he
 11 took when he was sick were performance enhancing, but
 12 the allegation -- I've not seen the allegation that
 13 drugs contributed to a non-linear development pattern.
 14 Q. Well, have you -- it's true, is it not, that
 15 one of the allegations that's been reported in the
 16 press was that before Mr. Armstrong got sick, he was
 17 considered to be what's called a classics racer?
 18 A. Yes, and that's exactly what I'm saying.
 19 There's nothing surprising about the fact that he had
 20 never finished the Tour before.
 21 Q. As opposed to someone who would either be a
 22 mountain climbing specialist or excellent in the
 23 mountains; that's different from saying that you're a
 24 classics race, true?
 25 A. Classics racer actually could be fantastic in

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1 the mountains. They may not be able to time trial
 2 those other things, but he was definitely a one-day
 3 racer versus a stage racer before he got sick.
 4 Q. And the Tour de France is completely
 5 different from just a series of -- it's not a one-day
 6 race?
 7 A. It's a three-week race.
 8 Q. Okay. One of the other allegations that has
 9 created some suspicion regarding Mr. Armstrong, of
 10 course, which we're going to explore a little later,
 11 has been his relationship with Dr. Michele Ferrari;
 12 would you agree with that?
 13 A. I would.
 14 Q. Now, Mr. Armstrong's response to all of this,
 15 that the notion that drugs have overtaken the sport
 16 and that in particular he might be using drugs, has
 17 been to first -- Mr. Armstrong has publicly stated
 18 that the use of drugs in cycling is overstated by the
 19 press and the media. Would you agree with me that
 20 Mr. Armstrong has taken that position?
 21 A. I would have to see the statement. I know
 22 he's taken the position that the cycling is the most
 23 policed sport in the world and it's done more,
 24 therefore, there are more -- or there have been more
 25 positive tests in cycling than others, but I would

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1 have to see a statement. If you have one, I'll be
 2 happy to look at it.
 3 Q. Let me ask you about you. Have you publicly
 4 taken the position that the media's position, like
 5 Mr. Walsh and others, that everyone in cycling must be
 6 using drugs, is way overstated; that that's not true?
 7 A. If I've made that statement, you can show it
 8 to me.
 9 Q. Okay. You don't remember making such a
 10 statement, though, or taking such a position?
 11 A. That cycling was a target of -- no, I've
 12 never -- my opinion is that cycling has had a serious
 13 drug problem, so I've never stated that it was not a
 14 problem. I don't know that I've ever stated that it
 15 was an overstated problem, and if you have a
 16 statement, I'd be happy to look at it.
 17 Q. In addition, the other position that's been
 18 taken by Mr. Armstrong and Tailwind is to deny
 19 publicly every charge or allegation of drug use in
 20 connection with Mr. Armstrong, fair?
 21 A. Absolutely.
 22 Q. And, in fact, not just deny it generally but
 23 as the articles come out or the allegations come out,
 24 Tailwind and Mr. Armstrong have uniformly denied each
 25 of those charges as they come out?

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1 A. Yes.
 2 Q. Now, in some of the articles that you showed
 3 us in connection with your direct testimony, which was
 4 124, I went through --
 5 MR. TILLOTSON: Mariela, if you can bring
 6 up the excerpts that we took from the PowerPoint.
 7 Q. (BY MR. TILLOTSON) You'll agree with me you
 8 showed some Dallas Morning News articles which
 9 recounted the 2000 scandal. Do you recall that
 10 generally?
 11 A. I do.
 12 Q. And I believe your testimony was that no
 13 right thinking person in Dallas who likes sports could
 14 have escaped the news stories about Mr. Armstrong and
 15 the 2000 scandal, fair?
 16 A. Yes.
 17 Q. Now, in connection with each of those
 18 articles I went through them and you'll agree with me
 19 that in each one of those articles there were quotes
 20 from Mr. Gorksi and Tailwind, for example, that the
 21 allegations were baseless?
 22 A. Yes.
 23 Q. And a statement that the team was not doing
 24 anything inappropriate, correct?
 25 A. Uh-huh, yes.

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1 Q. And in addition --
 2 MR. TILLOTSON: Mariela, if you'll bring
 3 up the next box.
 4 Q. (BY MR. TILLOTSON) -- from Mr. Armstrong in
 5 these same articles his statement that he was
 6 completely innocent and repeatedly denying using any
 7 performance enhancing drugs, correct?
 8 A. That's true.
 9 Q. And in the last one, the last article I found
 10 Mr. Gorski saying it's a preposterous rumor that
 11 continues to fester and that none of the riders on the
 12 team were using the banned drug; fair?
 13 A. That's fair.
 14 Q. So in connection with reading each of these
 15 articles in The Dallas Morning News about the
 16 investigation, you would agree with me that the reader
 17 would be fairly, squarely and completely confronted
 18 with Tailwind, Mr. Gorski and Mr. Armstrong's complete
 19 denial of those allegations?
 20 A. I would. My point, though, when we were
 21 talking about that was not --
 22 Q. Hang on. I'm sorry to interrupt you. I'll
 23 let Mr. Herman make all your points for you, if that's
 24 fair.
 25 ARBITRATOR FAULKNER: Just answer his

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1 questions, please.
 2 Q. (BY MR. TILLOTSON) Now, there's not only
 3 always a denial, you would agree with me that there is
 4 no confusion about Mr. Armstrong's position regarding
 5 his use of performance enhancing drugs?
 6 A. Correct.
 7 Q. Some cyclists that I've seen have said word
 8 games like, I've never tested positive or I've never
 9 been disqualified from a race without coupling that
 10 with an absolute denial any of drug use. You are
 11 aware of the distinction?
 12 A. Yes.
 13 Q. Correct?
 14 A. Yes.
 15 Q. But Mr. Armstrong has never played those word
 16 games. He has publicly stated repeatedly never used
 17 drugs.
 18 A. That's correct.
 19 Q. And that has been coupled with, as we saw
 20 from Mr. Gorski and Tailwind, the backing up and the
 21 confirmation that Mr. Armstrong has never used drugs,
 22 correct?
 23 A. Correct.
 24 Q. And also coupling that with the whole team
 25 has never used drugs; fair?

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1 A. Correct.
 2 Q. Now, in addition, there's also no doubt about
 3 the position you've taken with respect to
 4 Mr. Armstrong; fair?
 5 A. Fair.
 6 Q. Okay. Now, even though you've taken the
 7 position that these various allegations that we have
 8 seen are untrue, and that there's no substance to
 9 them, you've never really conducted an investigation
 10 into these allegations, have you?
 11 A. Investigation into the allegations that Lance
 12 is a doper?
 13 Q. Correct.
 14 A. I've had ten years of experience day-to-day
 15 with Lance that confirms it for me -- I've never
 16 launched a formal investigation, but I've had ten
 17 years of day-to-day life experience. I've been inside
 18 the -- inside the circle. I've been inside the team.
 19 So my own personal opinion and my own personal
 20 investigation is that he's clean.
 21 Q. Well, for example, to contrast with -- I know
 22 you think my clients were out of bounds in what they
 23 did, but a systematic, methodical calling up of people
 24 with allegations and attempting to corroborate and get
 25 statements from them to determine the truth or falsity

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1 of certain allegation; you've never gone through that
 2 process; fair?
 3 A. I don't know why I would call people who are
 4 at least once or twice removed from where I sit. I
 5 mean, I've seen it from the very inside. So, no, I've
 6 never called up Stephanie McIlvain and asked her,
 7 because I know more than she does.
 8 Q. But one of the things you do rely on is you
 9 rely on Mr. Armstrong's word that he has never used
 10 performance enhancing drugs?
 11 A. Of course, I do.
 12 Q. Because you're not really involved in the
 13 training part of the team? I think you told me that
 14 in your deposition, correct?
 15 A. I'm not involved in the training, but it is
 16 impossible for me to believe that that could go on
 17 without my knowledge.
 18 Q. Well, now --
 19 A. I'm not -- I'm not in the car when he's
 20 riding his bike. I'm not sitting there when he's
 21 doing an ergomatic test or I potentially could be, so
 22 when I say I'm not involved in the training, I don't
 23 prescribe what he should do one day versus what he
 24 should do the next, but if he was taking drugs and
 25 there was a systematic way to do that within the team,

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1 I would know that. They -- it could not be hidden
 2 from me.
 3 Q. Well, you have represented athletes who have
 4 later tested positive for the use of performance
 5 enhancing drugs or methods, have you not?
 6 A. Yes. Well, Tyler Hamilton is probably who
 7 you're talking about.
 8 Q. Yes.
 9 A. Yes.
 10 Q. So we know at least one example of an athlete
 11 who you've been around -- and he was on the team with
 12 Mr. Armstrong for a period of time?
 13 A. That's not a fair comparison.
 14 Q. Hang on. He was on the team for a period of
 15 time with Mr. Armstrong?
 16 A. When I was not the CEO, yes. When he was --
 17 Q. But you were involved in the same capacity
 18 with respect to Mr. Hamilton that you were with
 19 Mr. Armstrong on the U.S. Postal team, right?
 20 A. Not even close.
 21 Q. Okay. So it is possible, though, for an
 22 athlete to be under your representation and to test
 23 positive but for you not to know he was doing things
 24 that were banned, correct?
 25 A. It is possible in the Tyler Hamilton case;

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1 it's not possible in Lance's case. I would go months
 2 without having a conversation with Tyler. If you look
 3 at the relative importance of those clients to what we
 4 do every day at our company, there's no -- absolutely
 5 no comparison.
 6 Q. Now, it is fair -- you believe it is fair for
 7 you and others to rely on Mr. Armstrong's personal
 8 guarantee that he is not using performance enhancing
 9 drugs, correct?
 10 A. I do.
 11 Q. And Mr. Gorski, when he was at Tailwind and
 12 while you were representing Mr. Armstrong -- and just
 13 so we are clear there was a period of time where
 14 Tailwind was run by Mr. Gorski and you actually
 15 represented Mr. Armstrong who was an employee of
 16 Tailwind, correct?
 17 A. Correct.
 18 Q. And then later on Mr. Gorski departs Tailwind
 19 and you take over at Tailwind, correct?
 20 A. Fair.
 21 Q. But for the time that Mr. Gorski ran
 22 Tailwind, he never conducted an investigation on
 23 behalf of Tailwind into Mr. Armstrong to determine the
 24 truth or veracity or falsity of these various
 25 allegations, did he?

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1 A. I don't believe so.
 2 Q. He relied on your assurance and
 3 Mr. Armstrong's assurances, fair?
 4 A. And his own personal experience.
 5 Q. To make public statements that Mr. Armstrong
 6 is not doping, correct?
 7 A. Correct.
 8 Q. And, in fact, although you testified about
 9 what some of your sponsors came to you and talked to
 10 you about Mr. Armstrong, it's true, is it not, that
 11 CHUBB and Lloyds never approached you and asked you
 12 for personal assurances about Mr. Armstrong and drug
 13 use, correct?
 14 A. Correct.
 15 Q. So at the very least those two insurers
 16 were -- either didn't care or were content to rely on
 17 the public statements by Mr. Armstrong and Tailwind,
 18 correct?
 19 MR. HERMAN: Objection. What CHUBB and
 20 Lloyds relied on in entering into a \$5 million
 21 insurance contract is not within this witness's
 22 contemplation.
 23 MR. TILLOTSON: Well, the witness did
 24 testify regarding their payment, but I'll move on.
 25 I'll withdraw the question.

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1 ARBITRATOR FAULKNER: Proceed, then.
 2 Q. (BY MR. TILLOTSON) Now, when you met with
 3 these sponsors that you testified earlier, who asked
 4 you -- I think you told me, the testimony was, to look
 5 you in the eye and tell you straight up whether or not
 6 there was any truth to this, you didn't provide them
 7 with, for example, test results of Mr. Armstrong?
 8 A. Well, to the extent that I told them the test
 9 results were negative.
 10 Q. You didn't say, here are some statements that
 11 we have gotten from Chris Carmichael or Johan Bruyneel
 12 to show you -- you didn't show them any evidence; you
 13 just told them up front the rumors are not true,
 14 correct?
 15 A. I believe that any sponsor that asked that
 16 question believes that as I sit there I'm speaking for
 17 the people who are in the sort of inner group, which
 18 would be Carmichael and Bruyneel, so they -- I think
 19 they believe that I'm representing their opinions, as
 20 well, and their integrity.
 21 Q. But my point is you say nothing different in
 22 your private meetings with the sponsors than you say
 23 publicly, correct, with respect to Mr. Armstrong and
 24 drug use?
 25 A. I don't think that's accurate.

<p style="text-align: right;">Page 1793</p> <p>1 Q. Okay. So you do show them evidence of some 2 sort?</p> <p>3 A. No. The conversation would be more in depth 4 than it would be in just making a public statement.</p> <p>5 Q. But the substance, the ultimate conclusion 6 that you tell them about Mr. Armstrong is, I assure 7 you he is not using drugs, fair?</p> <p>8 A. Well, it goes one step further. I assure you 9 and I will give you a contractual right to terminate 10 your contract if it's not accurate.</p> <p>11 Q. Okay. But the substance part of it about the 12 allegations aren't true, Mr. Armstrong is completely 13 innocent, the rumors are preposterous, that's no 14 different than what's said publicly?</p> <p>15 A. That's correct.</p> <p>16 Q. So for a public -- if I just read your public 17 statements, I'm getting the same ultimate conclusion 18 that your sponsors are getting privately although I 19 don't have a contractual out, but I'm getting the same 20 ultimate guarantee, correct?</p> <p>21 A. You're getting to the same place, except the 22 conversations with the sponsors is much more in depth, 23 but the conclusion is the same, Lance doesn't take 24 drugs. I would say that to a sponsor, I would say 25 that to the public because that's the truth.</p>	<p style="text-align: right;">Page 1795</p> <p>1 MR. TILLOTSON: Mariela, if you'll bring 2 up Exhibit 85, your public comments regarding this, 3 notwithstanding -- this is taken from Sports 4 Illustrated in January of 2005. I'll give you a copy 5 which we are marking as Exhibit 85. This was not in 6 our binder, but I did bring copies. This is 7 Respondents' Exhibit 85 and this is just -- this is 8 off the Internet, but this is those little blurbs they 9 do in Sports Illustrated, and you say -- they 10 described the -- another investigation that was 11 ongoing at the time and that the matter is now tied up 12 in arbitration and you say he was declared the winner 13 and that's all that matters, quote, if Lance had won 14 the Tour de France this year on a motorcycle and the 15 Tour de France said we are naming him the winner, then 16 that's the end of the story. Did you see that?</p> <p>17 A. I do.</p> <p>18 Q. What you really meant by that was if you 19 could race motorcycles in accordance with the rules of 20 the Tour de France and he won, then he would be the 21 winner, correct?</p> <p>22 A. Yes. I never meant to infer that Lance 23 didn't have to follow the rules.</p> <p>24 Q. Okay. Now, you will agree with me if we look 25 at the Tour de France rules, which we have marked as</p>
<p style="text-align: right;">Page 1794</p> <p>1 Q. I want to switch gears for a second. We have 2 sort of talked about what you told sponsors. You 3 would -- this is extremely important to know because 4 we have a problem with our projector and I was going 5 to bring up a couple of exhibits so --</p> <p>6 THE WITNESS: Cody had a secret question.</p> <p>7 ARBITRATOR FAULKNER: Do you need to take 8 a little break?</p> <p>9 MR. TILLOTSON: If we can take a short 10 break, Mr. Chairman, to fix our projector.</p> <p>11 ARBITRATOR FAULKNER: We will take a few 12 minutes to fix the projector.</p> <p>13 (Recess 9:44 a.m. to 10:00 a.m.)</p> <p>14 ARBITRATOR FAULKNER: Let's resume.</p> <p>15 Q. (BY MR. TILLOTSON) Okay, Mr. Stapleton, I've 16 corrected my mechanical problem. I want to go back 17 and switch gears and talk to you regarding 18 Mr. Armstrong and payment of the bonus in this 19 particular case. I heard Mr. Armstrong say in his 20 testimony -- and I can't remember if you were here or 21 not, that it was his belief that he had to win the 22 Tour de France in accordance with its rules, do you 23 agree with that, to be eligible, for any bonus 24 payment?</p> <p>25 A. I do.</p>	<p style="text-align: right;">Page 1796</p> <p>1 Exhibit 91, that the Tour de France rules with 2 respect to drug testing say that they're subject to 3 the UCI rules; fair?</p> <p>4 A. That's fair. I don't see it up there.</p> <p>5 MR. TILLOTSON: Mariela, if you'll bring 6 up Article 28, Drug Testing, Exhibit 91.</p> <p>7 Q. (BY MR. TILLOTSON) You'll agree with me that 8 there at the bottom it says the Tour de France is 9 subject to the rules of the -- and that's the UCI -- 10 and then the Federation Francaise de Cyclisme 11 governing the drug testing system set up to detect 12 riders who may be using banned substances. Do you see 13 that?</p> <p>14 A. Yes.</p> <p>15 Q. And it's your understanding that Mr. 16 Armstrong has to win in accordance with the rules and 17 the TDF rules are the UCI rules; fair?</p> <p>18 A. Yes.</p> <p>19 Q. Now, have you ever actually looked at the UCI 20 rules regarding drug testing?</p> <p>21 A. Yes, I believe so.</p> <p>22 MR. TILLOTSON: Mariela, if you'll bring 23 up now what we have previously marked as Respondents' 24 Exhibit 80.</p> <p>25 Q. (BY MR. TILLOTSON) I want to ask you a</p>

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1 couple of questions regarding those rules and their
 2 application to this case. I want to focus first on
 3 Article III of the UCI rules. The UCI prohibits --
 4 and I guess the Tour de France also prohibits -- not
 5 just doping, but there in Article III recommending,
 6 proposing, authorizing, condoning or facilitating the
 7 use of any substance or method covered by the
 8 definition of doping or trafficking. Do you see that?
 9 A. I do.
 10 MR. HERMAN: Mr. Tillotson, excuse me. I
 11 didn't mean to interrupt, but my Respondent's 82 --
 12 MR. TILLOTSON: Did I misspeak?
 13 ARBITRATOR CHERNICK: Yes, you said 82.
 14 MR. HERMAN: That's a letter of mine
 15 dated September --
 16 MR. TILLOTSON: 80, I apologize. I
 17 believe I passed this out in connection with
 18 Mr. Longley's -- this little excerpt -- in connection
 19 with Mr. Longley. Exhibit 80.
 20 MR. HERMAN: I'm sorry, I don't have an
 21 80 in my book here.
 22 MR. TILLOTSON: Yes, we passed out the
 23 little exhibit.
 24 ARBITRATOR FAULKNER: It's -- it's an
 25 individual piece of paper.

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1 MR. HERMAN: Okay. Go ahead. That's all
 2 right. I don't --
 3 MR. TILLOTSON: I apologize, I'll give
 4 you my copy.
 5 MR. HERMAN: Go ahead.
 6 Q. (BY MR. TILLOTSON) So it's not just actually
 7 taking it; if you recommend it, propose it, authorize
 8 it, condone it or facilitate it. Do you see that?
 9 A. I do.
 10 Q. So, for example, if Dr. Ferrari is
 11 recommending to Mr. Armstrong that he use performance
 12 enhancing drug substances or proposing it, that is
 13 also prohibited by the UCI rules?
 14 A. Yes.
 15 Q. And you'll agree with me that if Mr. Swart's
 16 testimony was truthful or if Mr. Swart's testimony to
 17 be offered in this proceeding is truthful, that there
 18 was a discussion and an agreement to begin a doping
 19 program on the Motorola team in 1995, that is
 20 prohibited by the UCI rules?
 21 A. A conversation about a doping program is
 22 prohibited by the rules because?
 23 Q. Well, if Mr. Swart testifies that
 24 Mr. Armstrong recommended, proposed or condoned a
 25 doping program to begin in 1995, that would be in

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1 violation of the UCI rules?
 2 A. Yes, if he -- yes. I thought you were saying
 3 they had a conversation. If he's going to testify
 4 that Lance proposed it, I suppose that is a violation,
 5 yes.
 6 Q. Now, I want to turn, if you will, to what's
 7 Article X, which is the next page, which is called
 8 Proof.
 9 MR. TILLOTSON: If you'll blow up Article
 10 X for us, Mariela.
 11 MS. EVORA: Yeah, we only passed out
 12 those two pages.
 13 MR. TILLOTSON: If you'll blow it up,
 14 I'll put this in front of the witness.
 15 Do you have the next page up there?
 16 No, okay.
 17 Q. (BY MR. TILLOTSON) Article X, which is
 18 entitled proof says, doping and any other offense
 19 under the regulations may be proved by any means,
 20 including presumption. Do you see that?
 21 A. I do.
 22 Q. Okay. And you understand what that means is
 23 that you don't need to prove doping, you don't
 24 necessarily -- or must have a positive test result,
 25 correct?

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1 A. If that's what presumption means.
 2 Q. Well, you are aware of cases involving
 3 athletes who have been sanctioned for doping, even
 4 though there was not a positive test result, correct?
 5 A. Yes.
 6 Q. For example, Tim Montgomery is the most
 7 recent one.
 8 A. Yes.
 9 Q. And you are aware there was no positive test
 10 result of Mr. Montgomery but based upon the evidence
 11 presented it was determined he doped, correct?
 12 A. Yes.
 13 Q. So to say that Mr. Armstrong has never had a
 14 positive test result does not mean that it could still
 15 not be determined under the UCI rules that he has
 16 committed an offense with respect to doping, correct?
 17 A. Well, any athlete -- you know, under this
 18 provision, yes, any athlete -- the UCI could go back
 19 and try to prove that he was doping without a positive
 20 test, that's true. The point is that these are the
 21 people that get to make that determination.
 22 Q. Okay. Now, are you aware of the sanctions
 23 that can be imposed for an athlete who is found guilty
 24 of doping?
 25 A. Generally, yes.

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1 Q. And you're aware that one of the sanctions
2 under the World Antidoping Code is disqualification of
3 all results back to the date of the infraction?
4 A. Yes.
5 Q. I want to confirm that and offer into
6 evidence -- this is 81?
7 A. Yes.
8 Q. Okay. Let me approach you and show you, I
9 just took an excerpt out the World Antidoping Code,
10 which we have marked as Exhibit 81.
11 ARBITRATOR CHERNICK: My list says, WADA
12 rules.
13 MR. TILLOTSON: Correct.
14 MR. HERMAN: Can you tell us, is there
15 a --
16 MR. TILLOTSON: Here it is. I've got a
17 copy for you, Tim.
18 MR. BREEN: The '03 rules, Jeff?
19 MR. TILLOTSON: Yes.
20 Q. (BY MR. TILLOTSON) And if you'll turn,
21 Mr. Stapleton, it's the next page and I have excerpted
22 just that page, 10.7, and this is the provision that
23 provides for disqualification and all competitive
24 results obtained from the date a positive sample was
25 collected or other doping violation occurred. Do you

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1 see that?
2 A. Yes.
3 Q. So, for example, let's use a real life
4 example of -- Mr. Montgomery was determined to have
5 doped in 2003 World Championship results or Olympic
6 Gold Medal that took place in 2004 or victories in
7 2005 would be stripped because you go back to the date
8 of the violation, correct?
9 A. Correct, unless fairness requires otherwise
10 would be the only reason.
11 Q. Now, I want to talk about the point you just
12 brought up, which is who gets to decide this and the
13 appropriate way in which to do it. I think it's been
14 your testimony here that what SCA really ought to do
15 if they believe what they're saying is go to
16 regulatory authorities and pitch their case there; is
17 that fair?
18 A. What I think they really ought to do is pay
19 the money they owe and then do whatever they want.
20 Q. I didn't mean to leave that out, so, okay.
21 A. It's just a small part.
22 Q. I'm glad you admitted that.
23 Are you aware of any provision under the
24 UCI code that gives non-participants standing to go
25 challenge results or athletes?

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1 A. Am I aware of a provision that would give
2 them standing?
3 Q. Yes, sir.
4 A. No. That doesn't -- I don't know that that
5 means it's not in there, but I believe the UCI would
6 listen to any evidence of an athlete cheating.
7 Q. Well, for example, if an aggrieved fan said,
8 I really think Jan Ulrich won, not Mr. Armstrong, are
9 you aware of any provision in the UCI that allows a
10 third-party fan that went to the Tour de France to
11 present evidence to the UCI with respect to trying to
12 have Mr. Armstrong stripped of the title?
13 A. Well, I don't know of anything, for instance,
14 in the PGA tour code that says that a fan could
15 come -- if a fan sees something or something is on
16 tape that can be brought to the regulatory body, so I
17 don't know if there's a specific provision inviting
18 that but if there is credible evidence of cheating, I
19 believe the UCI would be interested in hearing about
20 that.
21 Q. At any time during the course of the parties'
22 disputes, which I date to approximately mid-August
23 2004 until today, have you ever authorized Mr. Herman
24 or you, yourself, sent a letter to SCA telling them
25 that their proper remedy, if at all, is to go to the

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1 regulatory officials?
2 A. I'm sure we have stated that.
3 Q. But you're not -- do you specifically recall
4 any letter you sent that said that: Go to UCI; go to
5 WADA?
6 A. I didn't send any letters, so I'm -- but I
7 would be -- it's hard for me to believe that
8 Mr. Herman never wrote in a letter that the proper
9 remedy here is to go to the UCI or Tour de France to
10 change the result and that this was not -- an
11 arbitration in Dallas was not the appropriate forum to
12 try to change the result.
13 Q. Now, you are aware there is an ongoing
14 investigation by UCI and WADA in connection with the
15 1999 l'Equipe story?
16 A. Correct.
17 Q. And do you know whether or not -- well, have
18 you, on behalf of Mr. Armstrong, provided any
19 information to WADA in connection with that
20 investigation?
21 A. There has been an exchange of correspondence
22 from our counsel in Washington with WADA asking
23 questions about the investigation itself, because
24 there's never been a clear understanding of what it is
25 that they're investigating. But we have every

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1 intention to cooperate once we understand what it is
 2 they're investigating and how that plays in with an
 3 independent UCI investigation that they suggested.
 4 Q. Now, is it fair to say that Mr. Armstrong has
 5 had a little bit of rocky relations with Dick Pound at
 6 WADA?
 7 A. Yes.
 8 Q. But much more favorable relations with UCI?
 9 A. Yes.
 10 Q. In fact, it would be fair to say
 11 Mr. Armstrong actually has quite good relations with
 12 UCI?
 13 A. We have had our moments. I would say, yes,
 14 his relationship with the UCI is clearly better than
 15 any relationship he has with Dick Pound.
 16 Q. And Mr. Armstrong --
 17 A. But you can't infer from that that the UCI
 18 investigation is not independent. We don't even know
 19 the investigator that's doing the UCI investigation.
 20 Q. Mr. Armstrong has, in fact, made a donation
 21 to the UCI at some point during his career, correct?
 22 A. Yes, he has.
 23 Q. And he's the only professional cyclist, to
 24 your knowledge, that's ever made a monetary donation
 25 to the UCI?

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1 A. Yes.
 2 Q. Do you know the amount of that donation?
 3 A. \$25,000, I think.
 4 Q. There have been reports that the amount of
 5 the donation is much higher; are those just
 6 inaccurate?
 7 A. Absolutely. There was a report that a German
 8 member of the UCI board said it was 500,000, which is
 9 completely inaccurate, and in -- and he gave the money
 10 in order to help buy a machine so they could do more
 11 blood testing. It's sort of like giving money to
 12 endow a professorship and then it comes back to haunt
 13 you as if you're trying to buy somebody off. That
 14 wasn't the case.
 15 Q. Do you know when the donation to the UCI was
 16 made?
 17 A. No.
 18 Q. Mr. Armstrong didn't in his deposition know
 19 either. Has Mr. Armstrong or yourself on behalf of
 20 him ever released a copy of the check documenting the
 21 amount?
 22 A. I don't know.
 23 Q. Let me approach you and show you what we will
 24 mark as --
 25 MR. TILLOTSON: I don't have this one on

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1 the system, I apologize.
 2 MS. EVORA: 93.
 3 Q. (BY MR. TILLOTSON) -- Respondents'
 4 Exhibit 93, and this is a news article, and you
 5 mentioned a German woman. Since you mentioned it, is
 6 the German woman you're referring to Sylvia Schenk?
 7 A. Yes, thank you.
 8 Q. And Ms. Schenk was actually on the UCI
 9 management committee; is that right?
 10 A. She was, yes.
 11 Q. All right. And if you'll note in the third
 12 paragraph this article reports Ms. Schenk saying, she
 13 noted further that since 1998 much has been done to
 14 combat doping in cycling, quote, but everything is
 15 suddenly different when it comes to Armstrong.
 16 There's obviously a close relationship to Armstrong.
 17 For example, the UCI took a lot of money from
 18 Armstrong; as far as I know, \$500,000. Now, of
 19 course, there's speculation that there are financial
 20 relationships to Armstrong as well as the American
 21 market. Do you see that?
 22 A. Yes. This is outrageous.
 23 MR. HERMAN: Your Honor, I object to the
 24 rank hearsay nature of this alleged fact by
 25 Mr. Tillotson. I mean, whatever Ms. Schenk said in

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1 the newspaper is rank hearsay, whether of course
 2 Mr. Stapleton heard it. That was the pending
 3 question, so we object to this backhanded way of
 4 trying to get something in evidence that shouldn't be
 5 there. I object to it.
 6 MR. TILLOTSON: Well, the witness brought
 7 it up in connection with questioning from me. Also
 8 both Mr. Stapleton and Mr. Armstrong have either
 9 feigned ignorance regarding the details of the
 10 contribution or have not produced any documents to
 11 satisfy that particular matter so I'm confronting the
 12 witness with a statement that he, himself, brought up
 13 and said was outrageous, and I intend to ask him if
 14 there is any other financial relationships between Mr.
 15 Armstrong and UCI.
 16 ARBITRATOR FAULKNER: Anything?
 17 Overruled. Go ahead and proceed to your
 18 next question.
 19 ARBITRATOR CHERNICK: Did you state what
 20 the source of this Exhibit 93 is, the name of the
 21 newspaper?
 22 MR. BREEN: Yes, what is that?
 23 MR. TILLOTSON: It may be on there. If
 24 it's not, I'll go back and get it.
 25 ARBITRATOR LYON: Cycling News.

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1 MR. TILLOTSON: I believe it's Cycling
 2 News is the cite.
 3 ARBITRATOR LYON: Is that right?
 4 MR. TILLOTSON: Yes.
 5 ARBITRATOR FAULKNER: Okay.
 6 Q. (BY MR. TILLOTSON) Is there any other
 7 financial relationship between Mr. Armstrong and the
 8 UCI, other than the contribution?
 9 A. Other than the contribution of \$25,000, there
 10 was discussion at one point about another machine they
 11 wanted to purchase. That was a conversation Lance
 12 had. I don't think it ever came to fruition. There
 13 are no other financial relationships between the UCI
 14 and Lance.
 15 Q. Did Mr. Armstrong ever issue a press release
 16 saying he was making a donation to the UCI?
 17 A. I don't think so.
 18 Q. Did he ever publicly announce it?
 19 A. He's stated it in interviews. We certainly
 20 didn't -- it's funny how this is getting turned on its
 21 head. We didn't intend to hide it. It was made in
 22 good faith at a time when they were trying to buy a
 23 machine that tests more blood so they could do more
 24 drug testing at the UCI.
 25 Q. Would you consider it unusual in any way,

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1 Mr. Stapleton, that one of the athletes who was
 2 regulated by UCI, for whom there have been allegations
 3 and suspicions for at least a six- or seven-year
 4 period, has donated money to the UCI? Do you consider
 5 that at all in the least bit unusual or suspicious?
 6 A. No.
 7 Q. Now, in connection with this particular case,
 8 the insurance was purchased through the use by
 9 Tailwind of a broker; fair?
 10 A. Correct.
 11 Q. That broker was ESIX, E-S-I-X?
 12 A. Correct.
 13 Q. And we have gone over this before, but just a
 14 foundational -- ESIX was TSI's, Tailwind's, broker or
 15 agent in connection with purchasing the insurance?
 16 A. That's correct.
 17 Q. Now, I believe you testified or previously
 18 thought that Tailwind had purchased insurance from
 19 SCA, correct?
 20 A. Yes.
 21 Q. To the extent you thought about it, you
 22 figured it was insurance; fair?
 23 A. Correct.
 24 Q. But you never spoke to anyone at SCA, so to
 25 the extent you thought it was insurance, it was not

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1 based on anything SCA had said to you or to
 2 Mr. Armstrong, correct?
 3 A. Correct.
 4 Q. And did you ever talk to Mr. Gorksi where he
 5 told you SCA had said to him it was insurance?
 6 A. No.
 7 Q. Now, you are aware of and have seen in the
 8 prior proceedings Respondent's Exhibit 10, which I'll
 9 put in front of you here. An e-mail sent to Ms. Price
 10 at ESIX, who was Tailwind's broker, where someone from
 11 SCA is saying the payment is not insurance and
 12 Mr. Armstrong is not an insured; you see that,
 13 correct?
 14 There at the top. It says, I think Kelly
 15 misunderstands.
 16 I'm not sure who "miss understands" is.
 17 A. I wasn't going to go there.
 18 Q. Okay.
 19 A. Yes.
 20 Q. Now, here's my point, you never saw this
 21 e-mail until these proceedings, correct?
 22 A. Correct.
 23 Q. So to the extent that Ms. Price got this and
 24 thought about this and knew something, she never
 25 communicated that to Tailwind, at least that you know

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1 of?
 2 A. At least that I know, right.
 3 Q. It certainly never got communicated to you as
 4 Mr. Armstrong's representative?
 5 A. Correct.
 6 Q. But you would agree -- now, you have
 7 mentioned and I want to now relate this to your
 8 broker -- you have mentioned that you couldn't imagine
 9 anyone not being alive and reading the papers and not
 10 knowing about the 2000 investigation; is that right?
 11 A. Yes.
 12 Q. Okay. Do you know --
 13 A. Let me just narrow that a little bit. You
 14 could have been alive and not known it. It's
 15 impossible to believe that you could be alive and
 16 entered a contract with Lance and not know it.
 17 Q. Well, let me ask you about that. If you'll
 18 bring up page 136 of Ms. Price's deposition. She's
 19 your broker, she's Tailwind's broker, she's
 20 representing Tailwind, trying to get a contract for
 21 Mr. Armstrong; fair?
 22 A. Correct.
 23 Q. So she's definitely involved in the business
 24 of Mr. Armstrong and trying to obtain insurance for
 25 his Tour de France wins?

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1 A. She's trying to obtain insurance for
2 Tailwind, not Mr. Armstrong, yes.
3 Q. Tailwind, okay.
4 A. Yes.
5 Q. If you'll look here on page 136 at line 17, I
6 asked Ms. Price: At the time you helped negotiate the
7 SCA Disson Furst contract in January of 2001, were you
8 aware of any investigation by the French authorities
9 into Mr. Armstrong's alleged use of performance
10 enhancing drugs, and she says, I was not. Do you see
11 that?
12 A. Yes, I do.
13 Q. Now --
14 A. I think Mr. Hamman and her were living under
15 the same rock at the time.
16 Q. That's probably a source of another dispute,
17 I'm sure.
18 Line 23, I asked, did Mr. Gorski or
19 anyone at Disson Furst ever indicate or tell you there
20 was an ongoing French investigation at the time you
21 were dealing with SCA? She's says, I don't recall
22 that being mentioned. Correct?
23 A. She does.
24 Q. And you never told anyone at ESIX about the
25 investigation, right?

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1 A. I didn't know anybody at ESIX.
2 Q. Finally, if he had told you that, would that
3 have been the kind of information you would have told
4 to SCA? And she answers yes. Do you see that?
5 A. I do.
6 Q. Now, you'll agree with me that Mr. Hamman
7 apparently wasn't the only person involved in business
8 dealings with Mr. Armstrong that wasn't aware of the
9 French investigation that began in November of 2000,
10 correct?
11 A. Correct.
12 Q. Now, you also mentioned when we talked about
13 whether or not Michele Ferrari and the relationship
14 between him and Mr. Armstrong was public and you have
15 said on several occasions that -- and I believe
16 Mr. Armstrong testified -- nothing was hidden about
17 Mr. Ferrari's relationship with Mr. Armstrong; there
18 was no effort to conceal that?
19 A. Correct.
20 Q. Do you know if your -- if the broker for
21 Tailwind was aware of Mr. Ferrari's relationship with
22 Mr. Armstrong at the time the contract was entered
23 into between SCA and Tailwind?
24 A. I don't know.
25 Q. Would it surprise you that Ms. Price, the

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1 broker for ESIX and a representative of Tailwind, had
2 no idea who Mr. Ferrari was?
3 A. No, it would not surprise me.
4 Q. Would it surprise you that she had no idea
5 there was a relationship between Mr. Ferrari and
6 Mr. Armstrong at the time she was pitching SCA for
7 this business?
8 A. That's correct.
9 Q. Now, since we are talking about the French
10 2000 investigation, Mr. Armstrong's response publicly
11 to the French investigation was, do you recall -- I
12 believe it was that it was a joke. Do you recall
13 that?
14 A. I don't recall that, but if you want to show
15 me the statement. It wouldn't surprise me that he
16 would say that.
17 Q. Okay. Hang on a second. On Friday you
18 showed us Exhibit 126. This is one of the ones
19 Mr. Herman showed you, and Mr. Armstrong says at the
20 top of the article that the authorities are wasting
21 their time, and there in the middle, he says, the
22 investigation was a joke from the beginning. Do you
23 see that?
24 A. Yep.
25 Q. So to the extent that someone knew about the

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1 investigation, they knew Mr. Armstrong's position was
2 you've got to be kidding me, this is a joke, and
3 there's nothing to this, correct?
4 A. There was nothing to it.
5 Q. In fact, although Mr. Armstrong testified
6 that he was willing to go deal with this and appear in
7 court, it is true, is it not, that Mr. Armstrong
8 notified investigators in connection with this
9 investigation that he would not show up and answer
10 questions regarding it?
11 A. I don't remember that. I remember the letter
12 we wrote that said that he would make himself
13 available and the statement we made when we were
14 sitting in Paris.
15 Q. Let me show you what we are marking as
16 Exhibit 87, which is an article from the Associated
17 Press. I'll give you a moment to look at that. This
18 is dated February of 2002, and this is related to the
19 French probe we're talking about because it's
20 regarding using doping products during the 2000 tour.
21 Do you see that?
22 A. I do.
23 Q. The headline of the article is Armstrong does
24 not appear for summons in French doping probe. Do you
25 see that?

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1 A. I do.
2 Q. Do you know this particular reporter?
3 A. Do I know this report?
4 Q. Reporter, first.
5 A. Oh, no, I don't.
6 Q. Okay. Paragraph -- and I guess in connection
7 with this particular probe, Mr. Armstrong's lawyer was
8 Georges -- is it --
9 A. Kiejman.
10 Q. A French lawyer?
11 A. Yes.
12 Q. Paragraph 2 says, Armstrong and his nine
13 teammates have been summoned to appear Tuesday before
14 investigators seeking additional information in
15 connection with an inquiry into whether the 2000 team
16 violated anti-doping rules. Do you see that?
17 A. I do.
18 Q. Were you aware, as Mr. Armstrong's
19 representative, that, in fact, he had been summoned to
20 appear before investigators seeking additional
21 information?
22 A. Well, yes. What they were seeking was his
23 medical files. So they already had the frozen urine
24 samples, the frozen blood samples and the thing had
25 been going on at this point for a year and a half, and

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1 at that point they now were seeking medical files of
2 all the riders and the -- our opinion with -- about
3 that was -- they had already tested everything,
4 everything was clean. And at that point it was
5 nothing more than an invasion of privacy. They had no
6 right to look at his medical files. It's not like he
7 was called to court and refused to show up. He
8 refused to produce his medical records.
9 Q. So you will agree with me that he did tell
10 investigators he would not show up for this summons?
11 A. Well, showing up means providing your medical
12 files. He was never summoned to court. That's how it
13 sounds like you're characterizing it, and that's not
14 accurate.
15 Q. Okay. He refused to provide information that
16 French investigators wanted?
17 A. He refused to provide his medical files, yes.
18 Q. And you know the reason why they wanted those
19 medical files, don't you?
20 A. Well, it says here they want to see if
21 there's anything in there for products that might have
22 been used to conceal evidence of doping. That was
23 after they spent a year and a half and they couldn't
24 find any evidence of doping because the samples were
25 clean.

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1 Q. It would not be fair to say that
2 Mr. Armstrong provided the French investigators in the
3 2000 investigation with everything they asked for;
4 true?
5 A. That's true.
6 Q. That's not what happened, okay.
7 And except for the Indiana University
8 medical files in this particular case, Mr. Armstrong
9 has not made his medical files available; fair?
10 A. To?
11 Q. SCA.
12 A. We produced -- I think we produced what you
13 asked for, which is medical files from IU.
14 Q. Let me back up then. Obviously SCA made a
15 demand on Tailwind in 2004 for all of Mr. Armstrong's
16 medical files, correct?
17 A. I remember that, yeah.
18 Q. And with the exception of the medical records
19 that have been produced from the Indiana University
20 hospital room, no other medical records were ever made
21 available by Mr. Armstrong to SCA; true?
22 A. That's correct.
23 Q. Now, I want to talk for a moment about
24 Dr. Ferrari. Have you ever met him, by the way?
25 A. Yes.

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1 Q. And you first learned of Mr. Armstrong's
2 relationship with Dr. Ferrari when?
3 A. You know, probably '95, '96.
4 Q. Do you know any of the details of the
5 payments made to Dr. Ferrari by Mr. Armstrong?
6 A. No.
7 Q. How much, when he's paid, how he's paid?
8 A. No.
9 Q. Now, even though you knew Mr. Armstrong had a
10 relationship with Dr. Ferrari from '95 or '96, you
11 never issued a press release acknowledging that
12 relationship prior to 2001, correct?
13 A. Correct.
14 Q. And it was revealed or told to an Italian
15 publication called la Gazzetta in 2001; is that right?
16 A. It was actually told -- reported in Cycle
17 Sport years before that. But, yes, it was -- it was
18 an interview, I think, the day before the Tour de
19 France was started in which the question was asked
20 about Ferrari, an Italian doctor, and they published
21 that the next day.
22 Q. Right. Now, before that was told to la
23 Gazzetta, you'll agree with me that you had been
24 contacted by David Walsh, who was writing an article,
25 asking some questions that led you to believe he was

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1 going to write an article about Mr. Armstrong's
 2 relationship with Dr. Ferrari, correct?
 3 A. And a number of other things, correct.
 4 Q. So realizing that Mr. Walsh was going to
 5 write this article about Dr. Ferrari for the Sunday
 6 Times, it is true, is it not, that as part of a
 7 strategy, it was designed to preempt Mr. Walsh's story
 8 and reveal it in the interview with la Gazzetta?
 9 A. I don't remember it like that.
 10 Q. Well, if Mr. Arm -- if Mr. Gorksi testified
 11 this was an effort to preempt David Walsh's story,
 12 would you quarrel with that?
 13 A. Uh-huh.
 14 Q. So there was no effort to preempt Mr. Walsh's
 15 story by revealing to la Gazzetta the existence of
 16 Dr. Ferrari's relationship with Mr. Armstrong?
 17 A. No. I was there when -- well, I got the
 18 e-mail questions from David, and, you know, there were
 19 questions in the -- that were a lot more concerning to
 20 me than -- the Ferrari question didn't concern me at
 21 all. There were questions, he said he had a -- you
 22 know, he had a former Motorola rider who was going to
 23 testify that Lance was a doper, which I think now
 24 turns out to be Stephen Swart. So there were a number
 25 of questions he posed that I had a lot more concerns

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1 about than I did about the Ferrari question. And then
 2 we did an interview with la Gazzetta and the question
 3 was posed by -- Pierre Bergonzi, who's the reporter
 4 there, and Lance acknowledged that he had a
 5 relationship with Dr. Ferrari.
 6 Q. In fact, when Mr. Armstrong had spoken to Mr.
 7 Walsh about his relationship with Dr. Ferrari, it's
 8 true, is it not, that Mr. Armstrong, when asked
 9 whether or not he saw Dr. Ferrari, responded to
 10 Mr. Walsh with the statement of perhaps?
 11 A. That's correct. I was there.
 12 Q. So --
 13 A. And I think the reason for that is --
 14 Q. Tell me -- let me ask the questions.
 15 A. Okay.
 16 Q. Why is Mr. Armstrong telling Mr. Walsh that
 17 perhaps he's seen Dr. Ferrari in response to questions
 18 when the -- you know the true answer was not perhaps
 19 but definitely he was seeing Dr. Ferrari?
 20 A. I think, you know, remembering the interview
 21 he did with David that day, the lead-in questions very
 22 much led you to believe that David was attempting to
 23 scandalize his relationship with Ferrari, which he's
 24 done a very successful job of doing. And I think
 25 Lance was sort of defensive in his answer because I

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1 think he was surprised that David had produced, you
 2 know, flights to Ferrara and different meetings that
 3 him and Ferrari had had and was attempting to
 4 scandalize it. So I think he was sort of taken aback.
 5 Q. There had never been any article written
 6 prior to that time detailing how many contacts or the
 7 nature of the relationship between Dr. Ferrari and Mr.
 8 Armstrong; true?
 9 A. I don't believe that it was something that
 10 people didn't know about. So to the extent that David
 11 made it newsworthy, suddenly those visits and those
 12 meetings had a -- took on a sinister edge, but there
 13 were plenty of reporters, the New York Times reporter
 14 Sam App, others of that -- of that level of newspaper
 15 knew about the relationship with Ferrari and chose
 16 that it wasn't something that he wanted to make a
 17 headline about. David is the one that decided to make
 18 a headline out of it.
 19 Q. In fact, when Mr. Armstrong talked to la
 20 Gazzetta, he downplayed his relationship with
 21 Dr. Ferrari by suggesting that the reason he was with
 22 Dr. Ferrari was he was considering going after the
 23 hour record, right?
 24 A. Well, I was there when he did that interview,
 25 and they talked about the hour record which Ferrari is

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1 famous for. I mean, at the time there was a lot of
 2 talk about whether Lance was going to do the hour
 3 record that year, but he talked about other things
 4 Ferrari did. I don't read Italian. I don't remember
 5 know exactly what got published, but he certainly
 6 didn't try to just couch Ferrari in a place where he
 7 was just the hour record guy.
 8 Q. Okay. Now, after you -- after this story is
 9 published but from '85 to 2001, did you do yourself
 10 any independent due diligence of Dr. Ferrari to
 11 determine whether or not there was anything
 12 inappropriate going on?
 13 A. Well, again my due diligence is, you know,
 14 living the last 10 or 11 years inside the team, inside
 15 what Lance does. But did I do an independent
 16 investigation? No.
 17 Q. Because you knew at the time in 2001 when la
 18 Gazzetta published it and Mr. Walsh wrote his article,
 19 that Dr. Ferrari was being prosecuted, correct, by the
 20 Italian authorities?
 21 A. No, I did not know that at the time.
 22 Q. So you had no idea he was being investigated
 23 by the Italian authorities?
 24 A. No, I didn't know about that until the
 25 investigation was actually dismissed later. It

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1 wasn't -- it wasn't -- it wasn't something I knew
2 about. Now, I do know about some of the statements
3 he's made in the past, but I didn't know about that
4 specifically.

5 Q. You weren't aware that at the time the
6 article came out from la Gazzetta that Dr. Ferrari was
7 involved in court proceedings regarding allegations
8 that he had helped dope other athletes?

9 A. No, because the court proceeding -- well, the
10 case that he was just convicted for -- is that --
11 you're talking about a different case or are you
12 talking about the case that he was convicted for last
13 year?

14 Q. Well, let me -- let me rephrase it to see if
15 we can get some clarity. At the time that it was
16 reported in la Gazzetta and by Mr. Walsh, okay,
17 Mr. Armstrong had a relationship with Dr. Ferrari,
18 were you aware that Dr. Ferrari was under
19 investigation and/or being prosecuted by Italian
20 authorities for his alleged efforts to dope athletes?

21 A. I'm not trying to be tricky. I believe there
22 were two separate things that happened with Ferrari.
23 There was something back in 2001, 2002 where the
24 Olympic Committee was investigating him, and there was
25 a ruling at one point that he couldn't associate with

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1 athletes, and that got overturned. That, I think, is
2 what you're asking me about that was going on then,
3 and, no, I didn't know about that.

4 I do, of course, know about the criminal
5 trial of Dr. Ferrari and the conviction last year. I
6 think we are talking about two different things, are
7 we?

8 Q. Well, let me, if I may, approach and show you
9 what we will mark as Exhibit 94. Let me show you
10 what we have marked as 94. This is a notice from the
11 Italian National Olympic Committee obtained by SCA in
12 connection with the work they did in this case. Had
13 you ever seen this before?

14 A. Again, this is what I was talking about. I
15 learned about this after it happened, so -- and I know
16 that this was subsequently overturned, and if that's
17 what you're asking about, did I know about this when
18 la Gazzetta did their interview, this answer is no.

19 Q. Okay. But did you learn about this on or
20 about its date, which is December 21st, 2001, in the
21 late 2001, 2002 time period?

22 A. What I remember about this is learning about
23 it after it had run its course and it had been
24 appealed or whatever happened there, and I'm pretty
25 foggy on exactly what happened, but I believe it was

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1 appealed and overturned and that's when I learned
2 about it. But I don't even know exactly when that
3 was, but I know that came and went and that I learned
4 about it near the end of it.

5 Q. And then later Dr. Ferrari was, in fact,
6 prosecuted by Italian authorities in a lengthy court
7 case, correct?

8 A. That's correct.

9 Q. And that culminated with his conviction of
10 sporting fraud in October of 2004?

11 A. That's correct.

12 Q. Did you or Mr. Armstrong follow the trial
13 testimony or proceedings in that case?

14 A. Not closely, but obviously I knew a little
15 bit about what was going on.

16 Q. Did you consider it important, representing
17 Mr. Armstrong, knowing the representations you had
18 made publicly regarding Mr. Armstrong not using
19 performance enhancing drugs, to find out if there was
20 any truth to the allegations that Dr. Ferrari helped
21 athletes dope?

22 A. Well, what I was concerned about was whether
23 or not Dr. Ferrari helped Lance dope. Lance never had
24 any experience with Dr. Ferrari that would have led
25 him to believe that any of that was true. That was

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1 the position we took, and we're very consistent during
2 that entire investigation that Lance had never had any
3 personal experience with Dr. Ferrari and doping.
4 There had been allegations about Ferrari all the way
5 back to the early '90s when he made a stupid comment
6 to a newspaper about EPO.

7 Q. Which was?

8 A. Which was -- well, he was sitting with a
9 reporter, and they were talking about the use of EPO
10 in the sport, and the reporter was drinking orange
11 juice, and Dr. Ferrari, I believe, said, anything used
12 in excess is bad for you. If you drank ten liters of
13 orange juice, that would be bad for you. It got
14 quoted later -- and I'm not defending Ferrari. It got
15 quoted later in -- sort of the cultural wisdom of what
16 he said was that EPO was no worse for you than orange
17 juice. That's not accurate; that's not what he said.
18 What he said was anything in excess is not good for
19 you. Either way it's a stupid quote, stupid thing to
20 say. It associated him with EPO. I knew about that
21 back in the mid '90s.

22 Q. Well, were you aware of any allegations
23 involving Dr. Ferrari in the Italian trial and other
24 riders who had ridden with Mr. Armstrong?

25 A. I think so. You've got to help me, but I

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1 think --
2 Q. Are you aware of Mr. -- Kevin Livingston's
3 name has come up in connection with being helped by
4 Dr. Ferrari, correct?
5 A. Yes.
6 Q. And you know also Dr. Ferrari worked with
7 George Hincapie?
8 A. He did?
9 Q. And Floyd Landis?
10 A. Okay.
11 Q. And you never -- did you ever attempt to
12 obtain any of the sworn testimony or court proceedings
13 to figure out if Dr. Ferrari was as notorious as I've
14 made him out to be?
15 A. No. That's what I was saying is, you've done
16 a pretty good job of making him notorious. Our
17 position was that Lance had never had any personal
18 experience with Ferrari and doping. But if a court
19 convicted him, he would end his relationship, and we
20 did. Our position is that he may win his appeal.
21 Lance still is of the opinion that he's a
22 good man. He did a lot to help Lance, like a lot of
23 other people, and he believes in him, but we publicly
24 ended that relationship, and privately, when he was
25 convicted.

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1 Q. Now, one of the key witnesses against
2 Dr. Ferrari in his trial was a writer by the name of
3 Filippo Simeoni, who Mr. Armstrong is involved in his
4 own court case with, correct?
5 A. Well, there's a number of them. One of them
6 actually -- you probably don't know this, but one of
7 them was dismissed in Paris this morning. All of
8 Simeoni's cases have been -- have been what I would
9 call frivolous, and he has demanded money like Mike
10 Anderson and others, and we have said, absolutely not,
11 and two of the three have now been dismissed.
12 Q. Now, when Dr. Ferrari is convicted, a press
13 release is issued by Mr. Armstrong severing the
14 relationship; is that right?
15 A. That's correct.
16 Q. Okay. Let me show you that press release,
17 which we showed you at your deposition, which is
18 Respondents' Exhibit 90. I apologize, this was
19 inadvertently left out of our binder, Exhibit 90.
20 ARBITRATOR FAULKNER: Thank you.
21 Q. (BY MR. TILLOTSON) Okay. The first thing is
22 obviously you're aware of this press release?
23 A. Yes.
24 Q. The thing is, this press release -- if you'll
25 look at the bottom, it's actually issued by Capital

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1 Sports and Entertainment, correct?
2 A. If you say so, yes.
3 Q. See down there at the bottom?
4 A. Yes.
5 Q. Okay. But it's on behalf of Mr. Armstrong
6 and the team, correct?
7 A. This would have been on behalf of
8 Mr. Armstrong, because -- what is the date of this?
9 Q. October 1st, 2004.
10 A. Oh, it would have been on behalf of both,
11 yes.
12 Q. Okay. And you say that this is in response
13 to the Italian court's acquittal of Dr. Ferrari
14 distributing doping products and its conviction for
15 sporting fraud and illegally acting as a pharmacist.
16 Do you see that?
17 A. Yes.
18 Q. And you say he's been on trial since 2001.
19 Do you see that?
20 A. Yes.
21 Q. But I don't -- I think you told me that you
22 didn't know he was actually involved in this
23 particular court case back in 2001.
24 A. Well, what I said is -- you asked me about
25 when we did the la Gazzetta interview in July of 2001.

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1 I don't know when this started, but I think it's after
2 that.
3 Q. You say he served as a conditioning
4 consultant to the U.S. Postal team. Do you see that?
5 A. Uh-huh.
6 Q. But he was never really officially a
7 consultant to the team, correct?
8 A. Right. That's not accurate.
9 Q. And you say --
10 ARBITRATOR CHERNICK: When you say that's
11 not accurate, the statement in the release is not
12 accurate or the statement Mr. Tillotson made?
13 THE WITNESS: That statement is not
14 accurate in the release.
15 ARBITRATOR CHERNICK: So what would be
16 the correct characterization rather than conditioning
17 consultant?
18 THE WITNESS: Well, conditioning
19 consultant, the things that he did would have been the
20 same, but the relationship he had with various members
21 of either the U.S. Postal team or others were private
22 relationships. He did not have an official
23 relationship with the U.S. Postal Service team. He
24 wasn't paid by the team.
25 ARBITRATOR CHERNICK: So he was an

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1 unofficial conditioning consultant?
 2 THE WITNESS: You could call him that.
 3 Q. (BY MR. TILLOTSON) I think Mr. Armstrong
 4 told us that Dr. Ferrari was never a consultant to the
 5 team, right?
 6 A. I think that's right.
 7 Q. And, in fact, Mr. Gorksi issued a press
 8 release on behalf of Tailwind, when Dr. Ferrari's
 9 relationship became public in 2001, saying,
 10 Dr. Ferrari doesn't work for this team, correct?
 11 A. Right, and the reason I answered
 12 Mr. Chernick's comment that way, he was an unofficial
 13 consultant, to the extent he had relationships with
 14 different members of the team, that would make him
 15 sort of an unofficial consultant to the team, but he
 16 did not have a contract with the U.S. Postal Service
 17 team.
 18 Q. And then you say that he had been in that
 19 role, which we now know is not -- he wasn't, to the
 20 team since 1999, correct?
 21 A. Yes.
 22 Q. When the reality is, is that Mr. Armstrong
 23 had been seeing Dr. Ferrari since 1995, correct?
 24 A. That's correct.
 25 Q. And there wasn't any effort here by -- by CSE

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1 or Tailwind at the very end to somehow minimize the
 2 relationship with Dr. Ferrari by shaving a couple of
 3 years off the length of the relationship and kind of
 4 placing him as a team consultant as opposed to an
 5 individual trainer of Mr. Armstrong, was there?
 6 A. No. In fact, this -- no, absolutely not.
 7 This was drafted by Waggener Edstrom, which is a PR
 8 company we use now and then from Seattle. I -- this
 9 was -- this is clearly on our letterhead so we are
 10 responsible for it, but this was not an attempt to --
 11 we had been clear all throughout the trial about
 12 Lance's relationship with Ferrari and how far back it
 13 went and when it was first reported.
 14 So this is a mistake. It was not
 15 intended to limit Ferrari's involvement with the team
 16 or with Lance or to shorten the amount of time that it
 17 had been public, because that was -- that was all
 18 already out there.
 19 Q. Now, I want to turn to -- to one of the
 20 disputes in the case, which is SCA's role as an
 21 insurer -- as an insurance company. At the time this
 22 dispute arose in August 2004 you had -- you were in
 23 charge of Tailwind, fair?
 24 A. Uh-huh.
 25 Q. And you knew fairly early on in these

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1 proceedings there was a dispute between the parties,
 2 that Tailwind was disputing whether it was an
 3 insurance company and what you had purchased --
 4 tailwind had purchased was insurance, correct?
 5 A. I knew that SCA was disputing that.
 6 Q. I'm sorry, SCA was disputing that. Thank
 7 you.
 8 A. We have never had a dispute about that.
 9 Q. So from approximately September or October of
 10 2004 Tailwind knew that SCA was claiming legally it
 11 was not an insurance company, correct?
 12 A. I don't remember exactly when, but I know it
 13 was pretty early on.
 14 Q. Okay. So -- okay. Now, I want to talk for a
 15 moment about the Indiana hospital room and I'll be
 16 happy to take a break. We have been going about an
 17 hour, or I'll -- I'm switching subjects.
 18 ARBITRATOR CHERNICK: I vote for a break.
 19 ARBITRATOR FAULKNER: We will take a
 20 ten-minute break right now.
 21 (Recess 10:49 a.m. to 11:09 a.m.)
 22 ARBITRATOR FAULKNER: You're still under
 23 oath. Please continue to answer questions on cross.
 24 MR. TILLOTSON: Mr. Chairman, I've
 25 compiled a list of the exhibits we have used that are

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1 not in our binders and I'm prepared to move for
 2 admission into evidence of those and I'll either do
 3 that now or --
 4 MR. HERMAN: Could we wait just a minute
 5 so I can get them in front of me at one time and see
 6 if we have any objections? Why don't you and I go
 7 over them.
 8 ARBITRATOR FAULKNER: Why don't you go
 9 over them first and --
 10 MR. TILLOTSON: That's fine. I will just
 11 tell you I will withdraw -- I'll do that later.
 12 And I do have -- I referred to
 13 Exhibit 91, which was the TDF Rules exhibit, and I did
 14 not pass out copies, but I will at this time. I'm
 15 going to put this up here because it's part of the
 16 documents you've been shown, but we have already
 17 covered that.
 18 Q. (BY MR. TILLOTSON) Okay. Mr. Stapleton,
 19 the -- what I call the Indiana University hospital
 20 room incident that there has been testimony and
 21 argument regarding, first, would you agree with me
 22 that the first time that story was made public was in
 23 connection with David Walsh's book in June of 2004?
 24 A. Well, yes, because it's not true.
 25 Q. When I say public, I mean the first time it

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1 publicly appeared that people might see or know that
 2 there was that allegation was in connection with
 3 Mr. Walsh's book?
 4 A. Yes, but I don't want -- yes, it was the
 5 first time it had been reported. And there's a lot of
 6 things that are in Mr. Walsh's book that was the first
 7 time they were reported because they are not true, but
 8 that was the first time it had ever been published.
 9 Q. Now, from the time that those allegations
 10 were published, you've never -- I've never seen a
 11 press release from yourself saying, I was there and
 12 this didn't happen?
 13 A. That's correct.
 14 Q. And I've never seen a press release from
 15 Mr. Carmichael or a public statement from Mr.
 16 Carmichael saying, I was there and this didn't happen,
 17 correct
 18 A. I think he's made a public statement about
 19 that.
 20 Q. Did CSE or Tailwind ever issue a press
 21 release specifically addressing the Indiana University
 22 hospital room incident?
 23 A. No. We didn't make a lot of press releases
 24 about a lot of the things that are in David Walsh's
 25 book.

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1 Q. It is true, is it not, that in connection
 2 with the book and its allegations regarding the
 3 Indiana University hospital room incident that you
 4 made efforts to go around to the various people who
 5 were alleged to be there and obtain statements from
 6 them denying that the Indiana University hospital room
 7 incident ever took place?
 8 A. In connection with the UK case I
 9 approached -- I talked with Frankie about it at one
 10 point. I e-mailed to Stephanie McIlvain about it.
 11 So, yes, I did go to people to ask them to either tell
 12 me it happened, which no one ever did, or to issue a
 13 witness statement denying it.
 14 Q. And you spoke to people and encouraged them
 15 to issue statements, make statements denying or
 16 contradicting the allegations in Mr. Walsh's book
 17 regarding the Indiana University hospital room
 18 incident, correct?
 19 A. Only to the extent that those statements
 20 would have been true.
 21 Q. Okay. In your deposition, however --
 22 MR. TILLOTSON: Mariela, if you'll bring
 23 up page 166 of his deposition.
 24 Q. (BY MR. TILLOTSON) Now, your deposition was
 25 taken in this matter on September 1st, 2005; would you

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1 agree with me?
 2 A. Yes.
 3 Q. It's before Frankie Andreu's deposition was
 4 taken, correct?
 5 A. What page?
 6 MR. HERMAN: What page is that, again,
 7 please?
 8 MR. TILLOTSON: 166.
 9 MR. HERMAN: Okay, thank you.
 10 Q. Page 166. To lay some context, this is
 11 before Mr. Andreu or Ms. Andreu had testified,
 12 correct, when you were deposed?
 13 A. If you say so.
 14 Q. Well, you testified on Friday that it was
 15 before.
 16 A. I think that's right.
 17 Q. Because you didn't remember in your
 18 deposition even talking to Frankie Andreu about the
 19 subject matter that there's now a transcript of.
 20 A. Right.
 21 Q. Okay. And in your deposition when I asked
 22 you if you had spoken to anyone and encouraged them to
 23 issue statements contradicting some of the allegations
 24 in Mr. Walsh's book, you said, not that I remember,
 25 correct?

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1 A. That's right.
 2 Q. So in your deposition in September you didn't
 3 remember speaking to Mr. Andreu and this conversation
 4 we are going to hear about in a second or talking to
 5 anyone and asking them to get statements, which we now
 6 know took place, correct?
 7 A. Well, I didn't remember the specific
 8 conversation with Frankie. That question, to me -- I
 9 mean I think the distinction is I didn't encourage
 10 anybody to lie or issue a statement that wasn't true.
 11 I certainly contacted Stephanie McIlvain and Frankie
 12 both about issuing a statement, and I didn't remember
 13 the conversation with Frankie, no.
 14 Q. Now, if you'll turn to Exhibit 35,
 15 Respondents' Exhibit 35, it will be right there.
 16 Despite what you remembered in your deposition, in
 17 fact, at least in October of 2004, you were e-mailing
 18 Stephanie McIlvain regarding the possibility that she
 19 might issue a statement denying what took place in the
 20 Indiana University hospital room; correct?
 21 A. That's right. I forgot about this earlier.
 22 Q. You and -- were actually, it says, you were
 23 trying to get statements from a variety of people,
 24 correct, Carmichael, Dr. Nichols, Frankie, Och --
 25 that's who?

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1 A. Jim Ochowicz.
 2 Q. Those statements, with the exception of
 3 what's been provided with the medical records of
 4 Dr. Nichols, there are no written statements that have
 5 been produced in this litigation from Mr. Carmichael,
 6 from Frankie Andreu or from Jim Ochowicz denying what
 7 took place in the Indian University hospital room,
 8 correct?
 9 A. I don't know. I would be surprised if
 10 there's not one from Chris Carmichael.
 11 MR. HERMAN: Are you talking about in
 12 this litigation?
 13 MR. TILLOTSON: Yes.
 14 MR. HERMAN: Is that the question?
 15 Q. (BY MR. TILLOTSON) Have any statements from
 16 any of these individuals been produced or provided in
 17 this litigation?
 18 A. Well, Craig Nichols, yes. I thought there
 19 were statements from Chris Carmichael, and Jim
 20 Ochowicz wouldn't have made a statement about Indiana
 21 University hospital because it wasn't alleged that he
 22 was there.
 23 Q. Now, you say in the second paragraph, I'm
 24 providing a statement myself, too. Do you see that?
 25 The last sentence, second paragraph.

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1 A. Yes.
 2 Q. You'll agree with me that no such statement
 3 by yourself has been produced in this litigation,
 4 correct?
 5 A. That's a statement in the British case.
 6 That's my witness statement in the British case. I've
 7 made plenty of statements in this case. I've been
 8 deposed, and I'm being cross examined right now. And
 9 also, this is not limited just to the Indiana
 10 University hospital incident, which as I said, was one
 11 of the things I'm least concerned about in David's
 12 book. It's about all the lies that he told that I'm
 13 asking people to make statements about.
 14 We are in litigation with David and his
 15 newspaper in London right now. That's what this is
 16 related to.
 17 Q. I understand Ms. McIlvain never agreed to
 18 provide such a statement, correct?
 19 A. She said she didn't want to be involved and
 20 she never agreed to make a statement, that is right.
 21 Q. Did she ever tell you the reason she wasn't
 22 going to make the statement was because you wouldn't
 23 be pleased with the kind of statement she was going to
 24 make?
 25 A. I don't think so.

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1 Q. Did she ever hint to you or acknowledge to
 2 you in any way that she believed the Indiana
 3 University hospital room incident took place?
 4 A. Not that I remember. She was very clear that
 5 she worked for one of his sponsors and did not want to
 6 be involved.
 7 Q. Now --
 8 A. She was very fearful of lawsuits and lawyers
 9 and litigation and all those things.
 10 Q. From Mr. Armstrong?
 11 A. No, she did not want to be involved in
 12 litigation that Mr. Armstrong was potentially going to
 13 be involved in. She thought if she ended up -- that's
 14 what she told me, she just didn't want to be involved.
 15 And that's why I say, I hope you'll reconsider your
 16 view, now that I've laid out for you what this is all
 17 about and why we are doing this.
 18 Q. Have you seen any statements from
 19 Ms. McIlvain that contradict your belief that she did
 20 not witness the incident as alleged in the book?
 21 A. I've seen the transcript that we saw Friday
 22 night, which, you know, but that's it.
 23 Q. Is there anything in that transcript
 24 regarding what she saw or heard in the Indiana
 25 University hospital room that she had previously told

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1 you at any time?
 2 MR. HERMAN: Objection, objection. You
 3 know that that transcript is not -- has never been
 4 offered, that it's absolutely -- and we are going to
 5 go over that, but Your Honor, I object to any
 6 questions about this transcript that Mr. Tillotson has
 7 gotten from Mr. LeMond's lawyer behind our back
 8 through litigation in Minnesota of which we were not
 9 even informed. So I object to any questions about
 10 anything that has to do with that. That's -- it's --
 11 it's just the rankest backhanded attempt to get in
 12 something that you know is -- couldn't possibly be
 13 admissible.
 14 ARBITRATOR FAULKNER: Reply, please.
 15 MR. TILLOTSON: Well, first of all, I
 16 dispute every bit of that. It is the most important
 17 evidence in this case regarding the truth of what has
 18 been said, and it contains an absolute clear-cut
 19 admission by a witness that she later contradicted as
 20 sworn testimony, and whatever happens with this
 21 proceeding it is critical testimony. This witness has
 22 had contacts attempting to obtain a statement from
 23 that witness. That witness declined to provide a
 24 statement. We are trying to explain why.
 25 But until the statement is admitted,

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1 until the transcript is admitted, I won't question
 2 this witness about it. So I'll move on with respect
 3 to it, but obviously that statement is going to be
 4 offered by us and be a centerpiece regarding Ms.
 5 McIlvain's testimony.
 6 MR. HERMAN: It's not a statement.
 7 ARBITRATOR FAULKNER: Okay, gentlemen.
 8 He's withdrawing the question. We will deal with that
 9 when it actually arises, and, you know, we will deal
 10 with it at that time.
 11 Go ahead with your next question,
 12 please.
 13 ARBITRATOR LYON: Let me ask a question,
 14 Mr. Chairman.
 15 ARBITRATOR FAULKNER: Certainly, go
 16 ahead.
 17 ARBITRATOR LYON: This is a
 18 tape-recording that wasn't produced at the deposition;
 19 is that the one you're talking about?
 20 MR. TILLOTSON: It's a tape-recording of
 21 a telephone conversation between Greg LeMond and
 22 Stephanie McIlvain that Mr. LeMond did not produce.
 23 I'm not even sure he identified it at his deposition,
 24 that this particular tape existed. That's what this
 25 is.

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1 Now, all we got Friday night from the
 2 lawyers who represent Mr. LeMond is the transcript of
 3 the tape that they, themselves, prepared. That's all
 4 I have. I understand that this morning arrived by
 5 Federal Express a copy of the tape which we are having
 6 copied, and I told Mr. Herman I would provide him that
 7 copy.
 8 MR. HERMAN: Now, Senator, I know you
 9 didn't ask me this question, but I mean just to make
 10 sure that -- for optional completeness here, the
 11 chairman issued a subpoena for the LeMonds, both, to
 12 appear on December 22nd, and that subpoena contained a
 13 duces tecum which covered this tape and written
 14 transcriptions in the other tapes.
 15 ARBITRATOR LYON: I'm aware of all that.
 16 MR. HERMAN: They did not show up.
 17 Mr. Tillotson filed a pleading in Minnesota which we
 18 were never copied on. Mr. Madel who represents the
 19 LeMonds objected to the enforcement of the subpoena,
 20 and then Mr. Tillotson, without ever telling us, made
 21 a -- reached a compromise agreement compromising the
 22 chairman's duces tecum and saying, it's okay, just
 23 give us the one tape, they don't to have appear, and
 24 we will just settle it at that. Now, that's what they
 25 want to introduce without any sponsoring witness,

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1 which violates every precept of even fundamental due
 2 process, but to the fact that they -- Mr. Tillotson
 3 negotiated a compromise which excluded everything we
 4 subpoenaed and included only what he wanted is -- is
 5 really where the issue is going to be drawn, but
 6 having said that, we will --
 7 ARBITRATOR CHERNICK: We are going to
 8 obviously discuss this later, but, Mr. Herman, did you
 9 mean to say that the subpoena that was issued by this
 10 panel and which was served on Greg LeMond and Kathy
 11 LeMond was not complied with in the sense that there
 12 never was a deposition proceeding?
 13 MR. HERMAN: Exactly.
 14 ARBITRATOR CHERNICK: And there was,
 15 instead, a legal effort by LeMond's lawyer in court to
 16 either quash or limit the subpoena and that's what
 17 you're talking about Mr. Tillotson dealing with that
 18 matter?
 19 MR. HERMAN: Exactly.
 20 MR. BREEN: We think so, Mr. Chernick,
 21 but since we haven't been provided copies of any of
 22 that, we are not 100 certain.
 23 MR. HERMAN: Nothing, no correspondence,
 24 no copies of pleadings, no nothing.
 25 ARBITRATOR FAULKNER: A reply?

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1 MR. TILLOTSON: It's exactly as
 2 represented. The panel knows -- Mr. Herman's duces
 3 tecum was drafted onto my subpoena. We served it. I
 4 told Mr. Herman at the time we served it that
 5 Mr. LeMond was going to object to his broad subpoena
 6 and that he would be on his own trying to get what he
 7 wanted and that I was not going to take the laboring
 8 oar to file a motion to compel the witness for
 9 documents he wanted. He being Mr. Herman.
 10 MR. HERMAN: It was the panel's subpoena.
 11 That's where you're wrong on that one minor issue. It
 12 was the chairman's subpoena.
 13 MR. TILLOTSON: Well, are you denying
 14 that I told you you were on your own in getting your
 15 documents?
 16 MR. BREEN: I'm going to deny that we
 17 didn't get anything that was filed up there either.
 18 ARBITRATOR FAULKNER: Gentlemen, y'all,
 19 enough on this. It hasn't been formally brought to
 20 us. It will be; we already anticipate that. Why
 21 don't you go on with your questioning so we can try to
 22 finish what we can of this witness before our luncheon
 23 break and we anticipate dealing with that later.
 24 Please proceed.
 25 Q. (BY MR. TILLOTSON) Let's talk about the one

<p style="text-align: right;">Page 1849</p> <p>1 tape we do have. You met with Frankie Andreu in 2004 2 in connection with the Tour de France, along with Bart 3 Knaggs, to talk to him about possibly obtaining a 4 statement from Betsy Andreu, his wife, correct? 5 A. Right. 6 Q. Let's put the players in context. You're 7 there on behalf of Mr. Armstrong and Tailwind, 8 correct? 9 A. Uh-huh. 10 Q. Mr. Knaggs is there on behalf of Armstrong 11 and Tailwind, correct? 12 A. Correct. 13 Q. Frankie Andreu used to be a teammate of 14 Mr. Armstrong's but left the team -- I think you said 15 he was terminated when 2000, 2001? 16 A. Something like that, yes. 17 Q. And he's at the Tour de France doing 18 commentary for one of the channels, correct? TV 19 channels, correct? 20 A. Correct. 21 Q. And in connection with all of this, 22 Mr. Armstrong, I believe, calls up Mr. Andreu and 23 says, Bill and Bart are coming over to talk to you; 24 fair? 25 A. Correct.</p>	<p style="text-align: right;">Page 1851</p> <p>1 A. That's correct. 2 Q. But you now know you were? 3 A. Yes. 4 Q. And have you heard the actual tape? 5 A. No. 6 Q. Have you seen and read the transcript? 7 A. Yes. 8 Q. And do you think the transcript fairly 9 comports with what you believe you said? 10 A. Yes. 11 Q. And what you were told by Mr. Andreu? 12 A. What he says, you mean? 13 Q. Yes. 14 A. I think it's pretty accurate. 15 MR. TILLOTSON: We would offer 16 Respondents' Exhibit 24, which is a transcript of 17 that tape. 18 MR. HERMAN: No objection. 19 ARBITRATOR FAULKNER: Okay, then it will 20 be admitted as Respondents' 24. 21 MR. TILLOTSON: We would also offer 22 Respondents' Exhibit 23. 23 MR. HERMAN: Let me withdraw it. I do 24 object on relevance grounds. It's got nothing to do 25 with whether SCA owes Tailwind the insurance proceeds</p>
<p style="text-align: right;">Page 1850</p> <p>1 Q. And then you arrange and you have a 2 meeting -- do you actually recall now today, as we sit 3 here, speaking with him perhaps in a parking lot or 4 some outdoor area? 5 A. Yes. 6 Q. And the subject matter of this conversation 7 was to get -- somehow to get Mr. Andreu to get a 8 statement from his wife denying something that 9 Mr. Walsh has said or written? 10 A. Yes, he said that she was the -- one of his 11 primary sources and that she was going to come testify 12 against Lance in the French proceeding. 13 ARBITRATOR CHERNICK: What French 14 proceeding, sir? 15 THE WITNESS: There's a lawsuit against 16 the publisher of Dave Walsh's book in France. 17 ARBITRATOR CHERNICK: So there's a 18 lawsuit in France and a lawsuit in England? 19 THE WITNESS: That's right. 20 ARBITRATOR CHERNICK: And the English 21 lawsuit is based on the London Times story and the 22 French lawsuit is based on the book? 23 THE WITNESS: Correct. 24 Q. (BY MR. TILLOTSON) Okay. Now, at the time 25 you didn't know that you were being recorded?</p>	<p style="text-align: right;">Page 1852</p> <p>1 for Tailwind's liability. I object. It's totally 2 irrelevant to any issue before this panel, but having 3 said that... 4 ARBITRATOR FAULKNER: Objection will be 5 overruled. It will be admitted into evidence. 6 What's your next exhibit, please. 7 MR. TILLOTSON: I would also offer 8 Exhibit 23, which is an actual copy of the tape, TDF 9 2004 Frankie and Bill. 10 MR. HERMAN: Same. I would have the same 11 statement, Your Honor. 12 ARBITRATOR FAULKNER: Thank you. The 13 objection will be overruled it will be admitted. 14 Q. (BY MR. TILLOTSON) Now, Mr. Stapleton, 15 you'll agree with me in connection with your review of 16 the transcript and what was said, the one thing you 17 didn't ask Mr. Andreu is, will your wife give a 18 statement denying that the hospital room incident took 19 place? 20 A. Yes, I wasn't there for that. 21 Q. You were there to somehow demonstrate that 22 Mr. Walsh was lying because she wasn't a source for 23 his book; is that right? 24 A. He was on the radio trying to build 25 credibility for his sources, many of which were</p>

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1 anonymous, but he was trying to build his case that
 2 his book was a serious, you know, review of sources
 3 and he cited his primary sources. One was Emma
 4 O'Reilly, the other one was Betsy Andreu, the other
 5 one as Greg LeMond.
 6 We were surprised to hear that Betsy
 7 Andreu was being cited as one of his primary sources,
 8 given Lance's long relationship with Frankie.
 9 Q. In fact, if you'll look at page 1 of
 10 Exhibit 24, the very first thing that you say is, you
 11 know your wife is a source for Walsh. Do you see
 12 that?
 13 A. Yes.
 14 Q. The very first line, okay. But, in fact, if
 15 you'll -- if you'll turn to page 2 of this same
 16 transcript and you'll go down to the little B with the
 17 X by it, either you or Mr. Knaggs says, well, I guess
 18 the question is, is she willing to go on record and
 19 say, David Walsh -- anything that he says you said is
 20 a lie. Do you see that?
 21 A. Yes.
 22 Q. Okay. Why didn't you ask Mr. Andreu why
 23 won't he and his wife give a statement that the
 24 Indiana University hospital room never took place
 25 when, in fact, you came to this meeting knowing that

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1 that was an untrue story?
 2 A. I mean, there's so many lies in David's book.
 3 I wasn't there to go and try to -- we had filed a suit
 4 against the publisher. We had filed suit against the
 5 Sunday Times in London and that was all going to
 6 happen in due course. I wasn't out desperately trying
 7 to get people to say they were lies or say they
 8 weren't lies. I was concerned that David was on the
 9 radio attempting to bolster his book and give it
 10 credibility, and I think it gives credibility if there
 11 are sources that are willing to say, yes, I was a
 12 source, so that was what I was trying to do, which was
 13 undermine the public statements that David Walsh was
 14 making trying to -- trying to justify and give
 15 credibility to his book, which was full of a number of
 16 lies, including the Indiana hospital room, among many,
 17 many others.
 18 I wasn't there to -- to ask Frankie
 19 whether it happened or not. Lance had told me it
 20 hadn't happened. Carmichael had told me it hadn't
 21 happened. I wasn't in the room. I assumed that that
 22 was going to be exposed or dealt with at the
 23 appropriate time.
 24 Q. Well, Mr. Andreu told you in this
 25 conversation that you had that the hospital room

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1 incident happened, correct?
 2 A. Well, we need to go to that.
 3 Q. All right, I'll go though that.
 4 A. You say he did.
 5 Q. Let's turn to page 3.
 6 MR. TILLOTSON: And, Mariela, first if
 7 you'll blow up the testimony that begins with, yeah, I
 8 mean, cuz. Let back up. If you'll blow up the top
 9 part of the conversation and put it in context here.
 10 Q. (BY MR. TILLOTSON) Okay. Mr. Andreu says,
 11 first of all, personally she won't come out with a
 12 statement saying, you know, her and Lance don't get
 13 along. Either you or Mr. Knaggs says, yeah. And then
 14 Mr. Andreu says, and she's not going to come out with
 15 a statement saying, I like Lance because Lance is a
 16 good guy. And then someone says, could you say
 17 that -- and he says, she won't do that. I don't
 18 see -- I believe she would come out with a statement
 19 saying that David about the hospital room. She
 20 didn't -- she didn't tell David Walsh about the
 21 hospital room. I mean, I know that for sure. Do you
 22 see that?
 23 A. It's very confusing, because I don't know
 24 what "could you say that" -- either Bart or I asked
 25 the question: Could you say that? Whatever that

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1 question is obviously relates to the next sentence and
 2 I don't -- I don't know what it is.
 3 Q. But the next sentence where Mr. Andreu says,
 4 'cuz I have never told anybody about the hospital
 5 room, you know. And someone says -- either you or
 6 Mr. Knaggs. Right. Do you see that.
 7 You didn't leave this conversation with
 8 any misimpression that Mr. Andreu had told you that he
 9 believed the Indiana Hospital room incident occurred,
 10 did you?
 11 A. Oh, absolutely I did, yeah. That's not clear
 12 to me that he's saying that it happened.
 13 Q. Well, he never told anyone about the hospital
 14 room -- if the hospital room incident never happened,
 15 why would he be being tell you he never told anyone
 16 about that incident?
 17 A. He -- he's saying there that I never told
 18 anybody about the hospital room. The hospital room is
 19 now sort of in the -- in David's book, right. That
 20 doesn't say to me that he's saying that Lance
 21 Armstrong admitted to using performance enhancing
 22 drugs in the hospital room. We didn't have that
 23 conversation.
 24 Q. Okay.
 25 A. You can infer whatever you want from that.

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1 Q. Let's stick with the words then. The next
 2 sentence someone says, right. And he says, I mean
 3 'cuz, you know I won't -- hospital and, you know, I
 4 don't know about blank hospital room happened.
 5 A. Let's stop there. I don't know --
 6 Q. Let me finish the whole thing, then I'll give
 7 you a chance to answer questions. But I've never told
 8 anybody because you -- you know, it -- David Walsh
 9 book for me, what does this shit accomplish? It
 10 accomplishes nothing. Do you see that?
 11 A. Yes.
 12 Q. Now, my question to you is, seeing this
 13 transcript and recalling what was told to you, do you
 14 recall if Mr. Andreu told you that his recollection
 15 was the hospital room incident happened and he had
 16 never disclosed it?
 17 A. Okay. He's obviously said that now in his
 18 deposition. But, no, I don't read that and I didn't
 19 believe when I was sitting there that day he was
 20 saying that Lance Armstrong admitted using drugs in
 21 the hospital room. There was a hospital room incident
 22 that had been reported in David's book, but, no, I
 23 don't read that and believe that he's telling me --
 24 and even if he had told me that, I wasn't there to
 25 argue with Frankie about whether it happened or not.

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1 Q. I want to play -- I queued up this portion of
 2 the tape and I'm going to play it for you, and I want
 3 you to listen to it and tell me whether or not you
 4 recall hearing Mr. Andreu saying, hearing the tape, I
 5 don't know about it -- hospital room happened, telling
 6 you that it happened.
 7 ARBITRATOR CHERNICK: Tell us exactly
 8 where in the transcript the tape is going to start so
 9 we can --
 10 MS. EVORA: It starts at "first of all."
 11 MR. TILLOTSON: It's going to start at
 12 the very top.
 13 ARBITRATOR CHERNICK: Thank you.
 14 (Tape-recording played.)
 15 Q. (BY MR. TILLOTSON) Now, the person we heard
 16 last talking, that was Mr. Andreu's voice and you
 17 recognize that, correct?
 18 A. Yes.
 19 Q. And is it your testimony here today that
 20 hearing that tape and remembering what was said, you
 21 don't recall him telling you, hey, that, hospital
 22 room, happened?
 23 A. No, he says, I don't know about -- you know,
 24 inaudible sounded to me like whether hospital room
 25 happened. So, no, I don't remember him telling me

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1 that, and I still don't think he's saying that. He
 2 obviously believes it now, because he's testified to
 3 it under oath, but, no, I didn't walk away from that
 4 conversation -- and reading it and hearing it now, I
 5 don't believe he left me with the impression that it
 6 definitely happened or what happened. We didn't go
 7 into the -- if I was there to have a conversation
 8 about what happened in the hospital room and
 9 specifically what David had alleged, I would have done
 10 that.
 11 Q. Okay. Now, I want to ask you to turn to now
 12 page 5. First, did you ever discuss with Frankie
 13 Andreu that unless Ms. Andreu retracted or said that
 14 David Walsh was lying, that it would be financially
 15 bad for them?
 16 A. I don't think so.
 17 Q. Do you know if Mr. Armstrong ever told
 18 Frankie Andreu, don't criticize me, don't say these
 19 things, because if it's bad for me, it's going to be
 20 bad for you guys financially?
 21 A. I don't think so.
 22 Q. Okay. Now, let me focus on a particular
 23 portion of this conversation that begins with -- down
 24 in the middle of the page with Mr. Andreu saying,
 25 so -- and nobody's been bothering her. Do you see

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1 that portion? I've blown it up for you.
 2 A. I do.
 3 Q. And it says, the thing is, I have F'ing
 4 protected Lance for a long time, not in me not talking
 5 about it...every interview I give. I fricking talk to
 6 this stuff. I say everything good. I liked him, you
 7 know, you know. And then ESPN called, that's when
 8 ESPN called Betsy to do an interview out of the blue.
 9 Flat out -- she said flat out, no. I won't go do it.
 10 Do you see that?
 11 A. Uh-huh.
 12 Q. Did you understand that Mr. Andreu was
 13 telling you that he had been protecting Mr. Armstrong
 14 from allegations like the Indiana University hospital
 15 room for some period of time?
 16 A. No.
 17 Q. What is Mr. -- in your mind, when you heard
 18 this, tell us what is it you understood Mr. Andreu was
 19 saying he was protecting Mr. Armstrong from?
 20 A. Well, he had ridden as a teammate of Lance's
 21 for a long time and it's no secret that Lance can be
 22 hard driving, difficult, can be an asshole. No
 23 question about that. And Frankie never went on the
 24 record and said, hey, this guy is hard to ride for;
 25 hey, he pushed us too hard. So that could be one

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1 thing he protected Lance from. I don't know, but I
 2 did not and do not understand that Frankie's statement
 3 was that he was protecting Lance from stories about
 4 doping or the Indiana University thing specifically.
 5 He saw a lot inside that team. It's a
 6 professional sports team, and they go to war together,
 7 and, you know, Frankie probably saw some moments with
 8 Lance that weren't pretty, because Lance can drive
 9 people -- and I know better than anybody, Lance can
 10 really, really drive people. If you can't take it,
 11 you are out. And that's probably what he was talking
 12 about.
 13 Q. Let me turn to page 6. There in the middle,
 14 there's the first black line which says inaudible
 15 comments. And I believe these are your words. You
 16 say, I don't want to get into a position where that
 17 you, that Betsy, the director becomes an adversary for
 18 Lance under any circumstances, so you know I would
 19 appreciate it if she would really think about taking
 20 the position it sounds like she's in right now, which
 21 is I didn't say that to him so we could -- we need the
 22 best result for all of us, and Mr. Andreu interjects,
 23 which she has done more than once.
 24 And you continue on, because the best
 25 result for us is to pick away at him, enough between

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1 his witnesses -- that he has taken things, pieced this
 2 hodge-podge together and show the Sunday Times and
 3 show his publisher that it really is falling apart and
 4 at that point extract an apology, drop the fucking
 5 lawsuit and it all just goes away. Because the other
 6 option is full out war in a French court and everybody
 7 is going to testify. It could blow the whole sport.
 8 Do you see that?
 9 A. Uh-huh.
 10 Q. And by blowing the whole sport what you meant
 11 was the evidence, allegations, revelations could be
 12 highly damaging for cycling and for Mr. Armstrong,
 13 correct?
 14 MR. HERMAN: Objection. It's a
 15 multifarious question. Allegations and revelations
 16 are two very separate things. I object to the form of
 17 the question.
 18 MR. TILLOTSON: I'll rephrase.
 19 Q. (BY MR. TILLOTSON) You were worried that a
 20 court case could bring out evidence that would be
 21 unfavorable to Mr. Armstrong, correct, and that's what
 22 this reference about blow the whole sport is, correct?
 23 A. Yeah. David -- I mean, obviously we are
 24 there because we filed the lawsuits and all the
 25 information in David's book has been publicized even

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1 more because of all the lawsuits, but we didn't have
 2 any choice. At this point if there was a way to make
 3 it go away without lawsuits and this thing dragging on
 4 for years, that would have been a good thing for all
 5 of us.
 6 Q. Now, you never did obtain -- there was
 7 further discussion in here that you're going to send
 8 Mr. Andreu a statement for Ms. Andreu to consider,
 9 right?
 10 A. Right.
 11 Q. Do you know if that ever happened?
 12 A. I don't think I ever did it.
 13 Q. Now, one of the other people who was alleged
 14 to be here was Ms. McIlvain, and during this time
 15 frame in 2004 she worked for Oakley; is that right?
 16 A. Yes.
 17 Q. And they make sunglasses and I think also
 18 clothes; is that right?
 19 A. Uh-huh.
 20 Q. And they're a -- Mr. Armstrong is a sponsored
 21 athlete, an endorser for Oakley?
 22 A. That's right.
 23 Q. And, in fact, Ms. McIlvain's wife works and
 24 is an executive at Oakley as well, does he not?
 25 A. Ms. McIlvain's husband.

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1 Q. Husband, I'm sorry, good point.
 2 Her husband is like global director of
 3 marketing or fairly high up in Oakley?
 4 A. Sports marketing, yeah.
 5 Q. Now, in 2005 l'Equipe published an article
 6 which it said showed or demonstrated that
 7 Mr. Armstrong had positive tests for EPO in connection
 8 with the 1999 Tour de France, correct?
 9 A. Correct.
 10 Q. If you'll look, just so we can see what we
 11 are talking about, I'm going to ask you to turn to
 12 Exhibit 36, Respondent's Exhibit 36. This is a
 13 miniaturized version of the l'Equipe article; is that
 14 right?
 15 A. Yes.
 16 Q. Okay. Have you ever read a translated
 17 version of this article?
 18 A. I have.
 19 MR. TILLOTSON: I would move for
 20 admission into evidence of Respondents' Exhibit 36.
 21 MR. HERMAN: If it's for the purpose of
 22 showing that the article appeared, I have no
 23 objection. If it's -- to demonstrate the truth of the
 24 matters contained in the article, I do object.
 25 MR. TILLOTSON: It --

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1 ARBITRATOR CHERNICK: On grounds of
 2 cultural inaccuracy.
 3 MR. HERMAN: Pardon me?
 4 ARBITRATOR CHERNICK: On grounds of
 5 cultural inaccuracy.
 6 MR. BREEN: Among others.
 7 MR. HERMAN: Among others.
 8 MR. TILLOTSON: I'm offering it just to
 9 show the article was published the date it was
 10 published. I'm not offering it to prove --
 11 MR. HERMAN: I have no objection on that
 12 basis.
 13 ARBITRATOR FAULKNER: The exhibit will be
 14 admitted.
 15 Q. (BY MR. TILLOTSON) If you'll turn to page 2
 16 so I can prove that this is true -- I'm kidding. If
 17 you'll turn to page 2 so we can sort of orient
 18 everyone to what's going on, on the left-hand side and
 19 I -- it is -- is test results or what is alleged to be
 20 test results, and on the right-hand side in the middle
 21 are these control forms that we have talked about; is
 22 that right? Or excerpts or what are represented to be
 23 these two things?
 24 A. Are you asking me that?
 25 Q. Yes, sir.

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1 A. I don't have any idea.
 2 Q. Okay.
 3 A. I mean, I know -- I know that that looks like
 4 the control form that Lance signs. I don't know how,
 5 you know, the other stuff works.
 6 Q. Okay. Let's talk about the control forms.
 7 For instance, that the reporter in France who wrote
 8 this article obtained these control forms or he said
 9 he did, correct?
 10 A. That's correct.
 11 Q. And the way he was able to get these control
 12 forms was he went to you and Mr. Armstrong and asked
 13 for your permission to have them released, correct?
 14 A. That's correct.
 15 Q. And his reasoning was, I want to prove that
 16 Mr. Armstrong didn't have medical exemptions for the
 17 use of performance enhancing drugs or something like
 18 that, correct?
 19 A. I don't remember exactly. We didn't have any
 20 problem with releasing them, so -- there was a reason.
 21 Q. Okay. So then he gets the control forms and
 22 somehow the test results and allegedly links these two
 23 up to write this article?
 24 A. Allegedly.
 25 Q. Okay. But my point is that the way the

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1 reporter got the control forms was through your and
 2 Mr. Armstrong's permission to get them, right?
 3 A. Partially, yes.
 4 Q. And you're not -- have you seen the control
 5 forms that were made an exhibit in this case?
 6 A. No.
 7 Q. You -- I haven't seen anywhere publicly,
 8 Mr. Stapleton, that you or Mr. Armstrong are
 9 contesting that the control forms themselves have
 10 been -- are forged documents?
 11 A. They're either forged -- there's something
 12 that is not right, so I'm not saying they're
 13 forgeries. I'm not -- but something -- the numbers
 14 aren't lining up or there's something here that isn't
 15 right and I think we'll have experts testify on that,
 16 but the conclusion that's reached is inaccurate.
 17 When Lance made his sample in '99, there
 18 was no EPO in it. I'm not alleging that that is a
 19 forgery, but I am alleging that either -- if that's
 20 not a forgery and those numbers are all accurate,
 21 which we have no way of knowing, because there's never
 22 been any chain of custody, there's never been anything
 23 else, I'm alleging that the lab and research project
 24 either spiked his samples, that the test didn't work,
 25 that you can't freeze urine for five years and

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1 unfreeze it and tell what it is. You have to have a
 2 chain of custody. So something is not right, and we
 3 can go through every one of them. Or that's a
 4 forgery. I don't know what and I guess that's what
 5 the UCI investigation is all about.
 6 Q. Well, is Tailwind investigating this matter
 7 to determine whether or not it still may have
 8 liability to Mr. Armstrong?
 9 A. Our liability is based on Lance being named
 10 the official winner. We don't get to escape our
 11 liability and do an investigation.
 12 Q. So the answer to my question is, no, Tailwind
 13 is not conducting an investigation into --
 14 A. It wouldn't do anything for us. We would
 15 still owe him the money.
 16 Q. I -- the answer to my question is -- I
 17 understand your reasoning. The answer is, no, there
 18 is no investigation ongoing?
 19 MR. HERMAN: You're talking about in
 20 1999?
 21 MR. TILLOTSON: I'm talking about today.
 22 MR. HERMAN: No, I mean, are you talking
 23 about investigating 1999?
 24 Q. (BY MR. TILLOTSON) Tailwind is not
 25 investigating these allegations, correct?

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1 A. No.
 2 ARBITRATOR CHERNICK: No means yes,
 3 that's correct, Tailwind is not investigating?
 4 MR. TILLOTSON: Thank you, Mr. Chernick.
 5 Q. (BY MR. TILLOTSON) And Tailwind and
 6 Mr. Armstrong hasn't sued l'Equipe?
 7 A. Not yet.
 8 Q. Has Mr. Armstrong ever sued l'Equipe?
 9 A. No.
 10 Q. He sued Mr. Walsh in two different countries?
 11 A. Yes.
 12 Q. He sued Mr. Anderson before Mr. Anderson sued
 13 him, right?
 14 A. He filed declaratory judgment again
 15 Mr. Anderson.
 16 Q. He sued SCA, right?
 17 A. Yes. Well, he didn't sue SCA. Tailwind sued
 18 SCA.
 19 Q. Not once has Mr. Armstrong ever sued
 20 l'Equipe?
 21 A. You should not infer from the fact that there
 22 has not been a lawsuit filed against l'Equipe that
 23 there's not going to be one filed. It's only been six
 24 months.
 25 Q. You will be able to explain that diligently

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1 to Mr. Herman, but the answer to my question is no
 2 lawsuit?
 3 A. No lawsuit yet.
 4 Q. Ever against l'Equipe?
 5 A. Never.
 6 Q. Now, are aware if anyone else's name has been
 7 publicly made available as having also tested positive
 8 based upon this research project as your lawyers
 9 described, other than Mr. Armstrong?
 10 A. Yes, I think there's two or three other
 11 riders.
 12 Q. One of whom is alleged to have been a member
 13 of the Discover (sic) team, correct?
 14 A. I think so.
 15 Q. Is Tailwind investigating how one of the
 16 members of its Discover team wound up allegedly having
 17 a positive test result in connection with this
 18 research project?
 19 A. No.
 20 ARBITRATOR LYON: Let me ask a question
 21 here, Mr. Tillotson.
 22 MR. TILLOTSON: Yes, sir.
 23 ARBITRATOR LYON: The Discovery team did
 24 not exist in 1999, did it?
 25 THE WITNESS: No.

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1 MR. TILLOTSON: That's correct.
 2 Q. (BY MR. TILLOTSON) Let me rephrase it, if I
 3 could, to clarify. One of the riders who did race in
 4 the 1999 Tour de France -- I don't know which team he
 5 was for, maybe you know.
 6 A. I don't remember the name of the rider
 7 either.
 8 MR. TILLOTSON: Mr. Beltran.
 9 THE WITNESS: Who?
 10 Q. (BY MR. TILLOTSON) Well, let me ask it this
 11 way.
 12 A. Is he still a member of the Discovery team?
 13 Q. Well, I'm asking you, I guess. Are you aware
 14 of a rider who was a member of the Discover team --
 15 A. Discovery.
 16 Q. Discovery team. Sorry.
 17 A. They pay a lot of money for that Y.
 18 Q. I bet they do.
 19 A. I don't want to be the Discover card.
 20 Q. We will get to that. I bet they do. A lot
 21 turns on the letter Y. You would be surprised.
 22 One of the members of your team that
 23 Tailwind currently owns that race for the team in
 24 2005's name has been reported that he also tested
 25 positive according to the research project that was

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1 done in 2005 of the 1999 test results, correct?
 2 A. I think so. Although I can't remember his
 3 name so I'm not positive.
 4 Q. I have it written down.
 5 A. I don't think whoever it is is on the team
 6 anymore.
 7 Q. He wasn't terminated because of this, was he?
 8 A. No.
 9 ARBITRATOR CHERNICK: I'm sorry, was the
 10 point of the question that he may have been with the
 11 Discovery team in 2005, but in 1999 when he was
 12 tested, he wasn't riding for the then Lance Armstrong
 13 Postal Team?
 14 THE WITNESS: I think that's the point,
 15 yeah.
 16 ARBITRATOR CHERNICK: Is that right? Is
 17 that what you're asking?
 18 MR. TILLOTSON: Yeah, the rider was not a
 19 member of the 1999 postal team.
 20 THE WITNESS: Who is it?
 21 MR. TILLOTSON: I believe it's Beltran.
 22 Does that sound familiar, Beltran?
 23 THE WITNESS: Beltran.
 24 MR. TILLOTSON: Tell us his name.
 25 THE WITNESS: Manuel Beltran.

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1 Q. (BY MR. TILLOTSON) Was a member of the 2005
2 Discovery team?
3 A. Yes.
4 Q. Rode with Mr. Armstrong in 2005?
5 A. Yes.
6 Q. And it has been publicly reported that his
7 test results from 1999, when he wasn't on
8 Mr. Armstrong's team, that his test results in 1999
9 also show positive for EPO?
10 A. That's correct.
11 Q. So it's true, is it not, that at least two
12 members of the 2005 Discovery team --
13 A. Uh-huh.
14 Q. -- have been reported, alleged to have tested
15 positive for EPO in connection with their riding in
16 1999, correct?
17 A. Yes.
18 Q. Now, generally you'll agree with me that the
19 French lab performing the testing does not or is not
20 supposed to have access to the forms identifying whose
21 test results or whose specimens that they are testing,
22 right?
23 A. Correct.
24 Q. The forms are kept by one person or one
25 organization and the lab has got these control forms

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1 or number code; is that right?
2 A. Yes.
3 Q. And you don't have any evidence, as you sit
4 here today, that somehow the lab had access to the
5 control forms, do you?
6 A. Maybe.
7 Q. Well, isn't it true that you didn't authorize
8 the author to obtain the control forms until after the
9 lab had performed the testing?
10 A. That's true, yeah.
11 Q. So there's no way that this reporter could
12 have gotten these control forms and gone to the lab at
13 the time they were doing the testing and said, let's
14 doctor Mr. Armstrong's specimen?
15 A. Well, let's start with it's not testing,
16 okay. They didn't have an A sample and a B sample and
17 there's going to be experts to testify about all the
18 inadequacies in what happened here. But they weren't
19 doing drug testing. They were doing research. They
20 spiked samples, they opened samples, they didn't
21 follow protocols. L'Equipe itself has acknowledged
22 that no one can ever be prosecuted based on these
23 results. There's no chain of custody. The lab
24 director has admitted that WADA forced him to turn the
25 results over. I mean, there's a lot here, but the

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1 bottom --
2 ARBITRATOR LYON: The lab director did
3 what? Said he wouldn't turn the results over.
4 THE WITNESS: He didn't want to.
5 Q. (BY MR. TILLOTSON) You'll agree with me that
6 with respect to EPO testing -- well, first of all,
7 obviously there was no EPO testing in connection with
8 the 1999 Tour de France as it was happening?
9 A. Or the 2000 Tour de France.
10 Q. Or the 2000 Tour de France.
11 It's true, is it not, that there's -- you
12 understand that EPO testing can't detect EPO use after
13 a certain amount of days of using the EPO; it won't be
14 in your urine anymore, correct?
15 A. I'm not a scientist, but I know that all
16 drugs wear off, so that's probably true.
17 Q. Now, I want to talk for a moment about your
18 involvement in the court proceedings in this case. In
19 connection with some legal proceedings for a temporary
20 restraining order in this case that Tailwind sought
21 against SCA, you provided an affidavit, correct?
22 A. Yes.
23 Q. In that affidavit you stated that employees
24 of SCA had told you that if it had to pay this
25 judgment, it would be -- or the amount of the

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1 insurance, it would be in financial difficulty to do
2 so, correct?
3 A. That's correct.
4 Q. In fact, in connection with the court
5 proceedings it was an employee who told you that,
6 right?
7 A. It was an employee whose -- who -- yes.
8 Q. And it wasn't a -- what would be considered
9 an executive of SCA who told you that, correct?
10 A. Correct.
11 Q. And when we saw the TRO in the legal
12 proceedings in this case earlier by Mr. Herman, that
13 was the subject matter of the TRO, regarding whether
14 or not SCA could pay, correct?
15 A. I think so, yes.
16 Q. Now, as I understand your position, you're
17 the insured in the case, Tailwind, correct?
18 A. Yes.
19 Q. Or were the insured, right?
20 A. Yes.
21 Q. Has the insured in the case undertaken any
22 investigation to figure out if there's anything to do
23 to prevent the loss?
24 A. The only thing that can prevent the loss is
25 if there was a determination made by ASO or the UCI

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1 that Lance was not the official winner of the Tour de
 2 France.
 3 Q. Well, has the insured made an investigation
 4 to determine the truth or falsity of the allegations
 5 regarding Mr. Armstrong's use of performance enhancing
 6 drugs to figure out whether or not the insured should
 7 go to the UCI and petition for that?
 8 A. The insured -- we cannot change the results
 9 of the tour.
 10 Q. If you can't change them --
 11 A. The allegations are public, so if the UCI or
 12 ASO wants to take it up, or WADA or whoever wants to
 13 take it up and change the result, then if the result
 14 changes, our liability changes. But our contract with
 15 Lance doesn't give us a right to go investigate a way
 16 not to pay him, like you guys did. It doesn't give us
 17 that right.
 18 Q. Let's talk about that. You obviously have in
 19 your contract -- TSI had in its contract with
 20 Mr. Armstrong the ability to terminate him if he had
 21 inappropriate drug conduct, correct?
 22 A. If he had a positive drug test.
 23 Q. Well, didn't TSI, Tailwind, represent to its
 24 sponsor that it had a moral turpitude and drug clause
 25 that allowed the company to suspend or terminate

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1 Mr. Armstrong for inappropriate drug conduct
 2 prejudicial to the team?
 3 A. Yes.
 4 Q. So not just a positive test result?
 5 A. I thought you were asking about Lance's
 6 contract. I didn't do the contract with the Postal
 7 Service, but if you say that's what it says, that's
 8 what it says.
 9 Q. You inherited that contract as chairman of
 10 Tailwind?
 11 A. Yes.
 12 Q. Take a look, if you will at Respondents'
 13 Exhibit 5. This is Tailwind at the bottom there
 14 representing to its sponsor that each rider has a
 15 moral turpitude and drug clause, correct?
 16 A. Where?
 17 Q. The bottom there, the company represents that
 18 each rider -- I'll direct your attention to this
 19 paragraph, okay?
 20 ARBITRATOR FAULKNER: Which paragraph
 21 number?
 22 MR. TILLOTSON: It Respondents'
 23 Exhibit 5, the fourth page in. These aren't numbered.
 24 The fourth page in, at the bottom that big paragraph
 25 at the bottom that says, the company represents.

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1 Q. (BY MR. TILLOTSON) Do you see that?
 2 ARBITRATOR FAULKNER: Third from the
 3 bottom?
 4 MR. TILLOTSON: I'm sorry, third from the
 5 bottom.
 6 Q. (BY MR. TILLOTSON) Do you see that?
 7 A. I do.
 8 Q. Okay. So Tailwind is telling its major
 9 sponsor that the team has a moral turpitude and drug
 10 clause that allows for suspension or termination for
 11 all of these things, correct?
 12 A. Yes, and they're outlined so it's not just
 13 anything, you're right.
 14 Q. Right, so, for example, they can terminate
 15 him -- under the rules of the UCI, they can terminate
 16 him for failure to pass a drug or medical test?
 17 A. True.
 18 Q. Or inappropriate drug conduct prejudicial to
 19 the team, correct?
 20 A. Uh-huh.
 21 Q. So that means that since Tailwind represented
 22 this to its sponsor, that it must have that right with
 23 respect to Mr. Armstrong, correct?
 24 A. Yeah. I'm not disputing that.
 25 Q. Okay. So in connection with this right with

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1 Mr. Armstrong did the insured investigate the
 2 allegations made in this case to determine if it had
 3 cause to terminate Mr. Armstrong or suspend him based
 4 upon these various provisions?
 5 A. Well, to the extent that I think and I think
 6 the people who are either on the board or executives
 7 of Tailwind believe that the allegations are baseless,
 8 no, there has not been a formal investigation to find
 9 a way not to pay Lance the money, no. If that's what
 10 you're asking, no.
 11 MR. TILLOTSON: Now, I'm going to switch
 12 subjects, and I probably have about another 20 minutes
 13 or so with this witness. I'm prepared to try to
 14 finish it before lunch, or I'm prepared to break and
 15 come back.
 16 ARBITRATOR LYON: What is the lunch
 17 program for today?
 18 MS. EVORA: It's supposed to be noon.
 19 ARBITRATOR FAULKNER: So they should be
 20 in here about two minutes.
 21 We will take our lunch break now.
 22 MR. TILLOTSON: I would just say I
 23 probably have about 30 minutes with the witness, so...
 24 ARBITRATOR FAULKNER: We note that these
 25 things expand.

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1 MR. TILLOTSON: I'm no Tim Herman, but I
 2 would say 30 minutes.
 3 MR. HERMAN: That's for sure.
 4 ARBITRATOR FAULKNER: We will resume in
 5 an hour.
 6 (Recess 12:00 p.m. to 1:10 p.m.)
 7 ARBITRATOR FAULKNER: All right.
 8 Mr. Stapleton, you're still under oath.
 9 Please proceed with cross.
 10 Q. (BY MR. TILLOTSON) Mr. Stapleton, on
 11 September 3rd or September 2nd the evidence presented
 12 in this proceeding so far showed that a letter was
 13 sent by SCA to yourself September 2nd, 2004. It is
 14 Respondents' Exhibit 26 there in front of you, volume
 15 1. This was the initial letter sent by Mr. Hamman
 16 also requesting certain information, correct?
 17 A. Correct.
 18 Q. And in response to this letter it's true, is
 19 it not, that Tailwind never provided any of the
 20 requested information in this letter to SCA?
 21 A. No, that's not true.
 22 Q. Well --
 23 A. We have provided some of that.
 24 Q. Well, there were no -- there was no execution
 25 of valid medical authorizations or releases by

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1 Mr. Armstrong ever provided to SCA, correct?
 2 A. No.
 3 Q. And no contracts were provided during this
 4 time period by Tailwind, correct?
 5 A. That's true.
 6 Q. Now, you know that SCA responded -- Tailwind
 7 responded to this letter and Mr. Herman became
 8 involved and you know that SCA then wrote additional
 9 letters to your counsel, correct?
 10 A. Yes.
 11 Q. And if you'll turn to the tab -- tab 27 is
 12 one such letter you have seen put here in evidence,
 13 correct?
 14 A. They wrote this to -- yes, Lawrence Temple,
 15 yes.
 16 Q. And you were aware, were you not, that one of
 17 the things SCA had told your outside lawyer who I
 18 believe you said was acting also at times as your
 19 in-house counsel was the statement there contained in
 20 the second paragraph starting with the second to last
 21 sentence that, quote, further it is our view that
 22 proof of the use of banned substances or processes
 23 might entitle us to recover any prior amounts paid to
 24 Disson Furst, Tailwind or Lance Armstrong under the
 25 contract. You see that, right?

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1 A. I see that.
 2 Q. So as early as September 7th, 2004 you were
 3 aware that SCA was taking the position that if
 4 Mr. Armstrong used forbidden performance enhancing
 5 substances or processes SCA was not going to pay the
 6 \$5 million and might seek to recover amounts
 7 previously paid, correct?
 8 A. Yes, but that's a lot different than telling
 9 us they were denying the claim.
 10 Q. Well, you didn't think on September 7th, 2004
 11 that SCA was going to pay the claim, correct?
 12 A. I sure did.
 13 Q. Okay. If you'll turn the tab, then another
 14 letter that came on September 10th, 2004, three days
 15 later, from SCA. You were aware, were you not, that
 16 SCA was investigating whether or not Tailwind or
 17 Mr. Armstrong had, quote -- there in the third
 18 paragraph -- made material misrepresentations or
 19 omissions upon which SCA was intended to rely. Do you
 20 see that?
 21 A. I see that.
 22 Q. So you knew that SCA was taking the position
 23 that their present obligation under the contract would
 24 be affected by the determination that Mr. Armstrong
 25 used banned drugs or processes to enhance his

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1 performance in the Tour de France or by determination
 2 that your clients made material misrepresentations or
 3 omissions upon which SCA was intended to rely. Do you
 4 see that?
 5 A. I see that.
 6 Q. You knew that was the position SCA was taking
 7 with Tailwind, correct?
 8 A. No, I don't agree that there was a position
 9 taken yet. There -- they clearly were in the process
 10 of post claim underwriting, and they were
 11 investigating a way not to pay Lance. They never told
 12 us there was a claim they were denying. They just --
 13 this is just sort of innuendo that maybe Lance took
 14 drugs and maybe if he did we don't have to pay you.
 15 Q. Okay. Now, you were told on September 22nd,
 16 2004, there on tab 29, that SCA had, quote, no
 17 alternative than to conduct its own investigation,
 18 there in the fourth paragraph. Do you see that?
 19 A. I do.
 20 Q. Okay. So you know as of September 22nd, the
 21 things we have seen in the letters and that SCA had no
 22 alternative but to conduct their own investigation,
 23 right?
 24 MR. HERMAN: Mr. Tillotson, are you
 25 asserting that this letter was sent?

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1 MR. TILLOTSON: Yes.
 2 MR. HERMAN: Because I don't think it
 3 was, but...
 4 MR. TILLOTSON: Okay. Well, I'll
 5 rephrase and ask him differently.
 6 MR. HERMAN: Okay.
 7 Q. (BY MR. TILLOTSON) You are aware that SCA
 8 informed Tailwind at some point in the fall of 2004
 9 that it would simply conduct its own investigation
 10 because it alleged Tailwind was not cooperating,
 11 correct?
 12 A. I know that that's what they alleged, yes.
 13 Q. Okay. Now -- so we are in September -- late
 14 September time period, and it was not long after that
 15 that you took out an ad in the business journal that
 16 we saw, correct?
 17 A. Yes.
 18 Q. Now, if you'll turn and switch volumes, I'm
 19 going to take you to tab 53, volume 2, and that's the
 20 ad.
 21 ARBITRATOR FAULKNER: You said 52?
 22 MR. TILLOTSON: 53, I'm sorry.
 23 ARBITRATOR FAULKNER: Okay.
 24 MR. TILLOTSON: Yeah, 53 is the ad.
 25 Q. (BY MR. TILLOTSON) And this was the ad run

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1 by CSE in the Street -- is it Street & Smith Business
 2 Journal?
 3 A. I think it's SportsBusiness Journal is what
 4 it's called, it's owned by Street & Smith.
 5 Q. And by the time you had run this ad, which I
 6 think you identified as sometime during the week of
 7 October 11th through 17th, SCA had not paid, correct?
 8 A. That's correct.
 9 Q. And you were comfortable enough with SCA not
 10 paying to say that they would refuse to pay pending an
 11 investigation into drug allegations against Lance
 12 there in the third paragraph, correct?
 13 A. Yes.
 14 Q. And you didn't imply in this ad or say in
 15 this ad that you were patiently awaiting payment or
 16 that it would be coming soon, the point was SCA has
 17 refused to pay us, correct?
 18 A. Yes.
 19 Q. Now, although this ad was run by CSE, it
 20 carried with it a picture of Mr. Armstrong which we
 21 see there, correct?
 22 A. Yeah.
 23 Q. And Mr. -- that was okay with Mr. Armstrong
 24 to be part of this ad, correct?
 25 A. Yes.

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1 Q. And CSE's relationship, they are part owners
 2 of the team?
 3 A. Yes.
 4 Q. Okay.
 5 A. And we have a management contract, too.
 6 Q. All right. But the money wasn't actually
 7 owed to CSE, it was owed to Tailwind; is that right?
 8 A. That's correct.
 9 Q. Okay. Then if you'll take a look -- let me
 10 show you a -- this ad was preceded by a press release
 11 from CSE. Do you recall that?
 12 Do you recall before you ran this ad CSE
 13 had issued a press release about --
 14 A. Oh, you asked me.
 15 Q. Yes.
 16 A. I don't, but can you show it to me.
 17 Q. Let me show you what we will mark as
 18 Respondents' Exhibit 88.
 19 This is Exhibit 88, Respondents'
 20 Exhibit 88.
 21 A. Thank you.
 22 Q. And if you'll just look at this and confirm
 23 for us that this is a press release issued by CSE in
 24 connection with this matter?
 25 A. Yes.

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1 Q. This was in response to some comments for
 2 which Mr. Compton was quoted by; is that right?
 3 A. Exactly.
 4 Q. But if you look at the text of it, for
 5 example, the bonuses were insured by three companies,
 6 paragraph 3 of your press release, it looks to me like
 7 the ad you ran was taken from this press release; is
 8 that fair to say?
 9 A. I think -- I think that's accurate, yes. And
 10 I think that after the first -- yes. I mean, I think
 11 lots of the ad comes from this press release. I don't
 12 know if it's word for word.
 13 Q. Okay. But what's not in the press release on
 14 September 25th, but what makes it into the ad on
 15 October 11th, is this statement you put that two other
 16 companies, CHUBB and Lloyds, promptly sent payment
 17 along with congratulations and kudos to Lance. I
 18 don't see that in connection with the press release
 19 done on September 25th. Am I right on that?
 20 A. I'll take your word for it.
 21 Q. So at least when you issued the press release
 22 you weren't prepared to say or didn't think you needed
 23 to say that the two other companies had paid, right?
 24 A. Yes, there was probably a reason.
 25 Q. Well, isn't the reason that one of the

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1 companies hadn't paid?
2 A. I'm guessing that's the reason.
3 Q. Okay. And, in fact, the one company that
4 didn't pay didn't actually pay all of the money owed
5 until November 12th of 2004?
6 A. Well, for purposes of this on September 2nd,
7 they assured us they were paying, and in early October
8 they paid all but \$250,000 of \$2 million -- \$2.5
9 million, so they had substantially paid, in my
10 opinion. They had not paid every penny, but it was
11 coming and we knew it. There was no reason to believe
12 that they weren't paying the rest.
13 Q. You would agree with me that -- that -- that
14 Lloyds had not promptly sent payment, along with
15 congratulations?
16 A. Well, and what I said earlier is if SCA had
17 paid \$4.75 million and there was another company that
18 hadn't paid, I would have written the exact same
19 thing. It was promptly paid -- see, this is mostly
20 paid and there's no reason to have any good faith
21 belief that the rest isn't coming by -- evidenced by
22 somebody paying almost all of it. I think they
23 promptly paid.
24 Q. Your intent in running this ad, which is
25 Respondents' Exhibit 53, wasn't to demonstrate that

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1 Lloyds acknowledged their obligation and would get
2 around to paying you in due course, it was to paint a
3 picture that Lloyds and CHUBB had promptly paid,
4 quickly paid, correct?
5 A. My intent in writing this ad was to defend
6 Tailwind and Lance against the baseless comments that
7 Mr. Compton said in USA Today. This is -- this is a
8 defense, not an offense, and we were attempting to
9 portray what had happened, because we had been accused
10 of being unwilling to provide the test results, which
11 we provided. And so I did not want anyone to be left
12 with the impression that we weren't cooperating or
13 that we hadn't provided what we were asked to provide,
14 and Mr. Compton claimed we didn't provide, which made
15 it look like we were afraid to produce Lance's test
16 results, which we have never been afraid to produce.
17 Q. Well, you know now that your broker, ESIX,
18 actually fronted some of the payment from Lloyds,
19 correct?
20 A. I don't know that.
21 Q. You weren't aware that your broker for
22 Tailwind, ESIX, agreed that they would front some of
23 the money owed by Lloyds until Lloyds got around to
24 paying it?
25 A. No, I didn't know that. Part of the \$2.25

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1 million that was paid?
2 Q. Of the last \$250 are you aware that your
3 broker actually fronted some of that money?
4 A. No. It doesn't concern me. That -- I mean,
5 I think that proves that they even believed the money
6 was coming. They were trying to collect from -- I
7 can't remember what they call it, syndicates. The
8 money was coming.
9 If the broker fronted half of that \$250,
10 that says to me that they were as sure as we were that
11 they were going to pay. I mean, they had paid. If
12 they had sent \$250,000 and said, we'll send you
13 another \$2.25 million when we get to it, it would be a
14 different story.
15 Q. Now, in connection with the ad that was --
16 was run, did you believe that this ad at the time you
17 authorized its publication might have an adverse
18 impact on SCA's business reputation?
19 A. No.
20 Q. That wasn't the purpose of running this ad?
21 A. No, absolutely not. Why would I want to
22 damage their reputation when they're -- when they owe
23 us money? I want them to be solvent to pay us the
24 money they owe us.
25 Q. Well, did -- did you ask Mr. Compton in

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1 court -- in the court proceeding how he liked the ad
2 that was run?
3 A. I did.
4 Q. Okay. And I take it you weren't trying to
5 engage in friendly business conversation or trying to
6 indicate to him that that ad was intended to --
7 A. My personal --
8 Q. -- portray SCA in a certain light to the
9 business community, for instance?
10 A. No, absolutely not. My personal opinion of
11 Mr. Compton and the way he's behaved has nothing to do
12 with whether this ad was intended to damage his
13 company. It was not intended to that. Yes, I was
14 pissed off at Mr. Compton for what he said in USA
15 Today, because it wasn't true, and it made me and it
16 made my client look like we were unwilling to provide,
17 you know, test results that we had provided. So I
18 took it personally that he said that. And we also had
19 agreed we weren't going to talk to the press.
20 Q. Let's -- let's talk about that. Is it --
21 it's true, is it not, that Mr. Temple, on
22 September 3rd, 2004, told SCA that they were prepared
23 to go public with this dispute?
24 A. I think so. Do you want to show me the
25 letter?

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1 Q. If you give me a second, I'll find it for
 2 you. Do you recall that?
 3 A. I think that was couched in a number of
 4 different statements that were made, but that was
 5 obviously one option. And the letter you just showed
 6 me from Mr. Compton talks about that as well.
 7 Q. If you'll look at Respondents' -- at
 8 Claimant's Exhibit 90 -- Claimant's Exhibit 90, which
 9 would be in this binder here, a letter from
 10 Mr. Temple, page 2, you'll agree with me that one of
 11 the things that Mr. Temple said was that -- at the top
 12 there -- if that has not occurred, and that being
 13 payment of the \$5 million, not only would we consider
 14 all legal alternatives but we are fully prepared to
 15 consider public relations alternatives, including
 16 releasing a press release on SCA's refusal to pay the
 17 amount it owes. Do you see that?
 18 A. Uh-huh.
 19 Q. Okay. Now, the e-mail that came on
 20 August 16th from ESIX to SCA, that's also referenced
 21 in the -- the ad that test results confirm for me that
 22 what was provided to SCA was Christian Varin's
 23 statements regarding Mr. Armstrong testing negative in
 24 the 2004 Tour de France.
 25 A. That's correct.

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1 Q. The actual test results, like, for example --
 2 like what we have seen here where there's
 3 documentation about what the testing showed, that was
 4 never provided to SCA?
 5 A. That's not what they asked for.
 6 Q. Hang on. That was never provided to SCA?
 7 A. Well, we have never had that.
 8 Q. In fact, you know that the UCI, Christian
 9 Varin, told your broker they would not release those
 10 test results?
 11 A. Well, we are getting into semantics here and
 12 we did this in my deposition. To me a test result is
 13 a statement from an antidoping manager in charge of
 14 testing that says all the results are negative. Those
 15 are the results of Lance's drug test. I didn't have
 16 and never intimated that I could have and never told
 17 Mr. Compton that I would get the actual protocol form
 18 that you have there that -- I've never had those
 19 before.
 20 The UCI was unwilling -- they don't
 21 release those to athletes. We have asked again and
 22 again to have those released from the UCI, but the
 23 fact is that on August 16th, SCA knew that all of his
 24 tests were negative and that's what they asked for,
 25 that's what Mr. Compton claimed in the USA Today we

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1 were unwilling to provide and that's why the ad was
 2 drafted.
 3 ARBITRATOR CHERNICK: Mr. Tillotson, you
 4 held up a document and showed it to Mr. Stapleton and
 5 referred to it as "this." Can you just give us the
 6 exhibit reference so that the record is clear?
 7 MR. TILLOTSON: Yes, I will. It was
 8 Respondents' Exhibit 44.
 9 MR. BREEN: Which, for the record, is the
 10 one we continue to object to.
 11 ARBITRATOR FAULKNER: Noted.
 12 Please proceed.
 13 MR. TILLOTSON: It's a demonstrative.
 14 Q. (BY MR. TILLOTSON) Now, I want to switch to
 15 a different subject. You told me, I think, in your --
 16 not told me, you said in your direct testimony, that
 17 you had -- in 2004 you were negotiating the Discovery
 18 contract; is that right?
 19 A. Yes, and thank you for getting the Y in
 20 there.
 21 Q. You're welcome.
 22 Well, you'll know why my next question.
 23 I believe -- I want to make sure I get their name
 24 right, but the value of that contract -- and I think
 25 you said it was a \$31 million contract; is that fair?

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1 A. Yes.
 2 Q. So in -- do you know when that contract was
 3 executed?
 4 A. Yes.
 5 Q. Was it prior to this arbitration being filed?
 6 A. It was executed -- if June 14th was a Sunday
 7 and that was David Walsh's article, it was executed on
 8 June 11th, 2004.
 9 Q. So as of June 11th, 2004 it's fair to say
 10 that Tailwind had a contract with Discovery that would
 11 pay it \$31 million?
 12 A. Correct.
 13 Q. And prior to that time period, Tailwind had
 14 had a contract with the U.S. Postal Service over '01
 15 to '04 that was going to pay it a certain dollar value
 16 per year, correct?
 17 A. Correct.
 18 Q. Do you know if the sum value of the payments
 19 under that contract, the '01 to '04, by the U.S.
 20 Postal team exceeded -- equaled or exceeded \$25
 21 million?
 22 A. '01 to '04?
 23 Q. Yes.
 24 Let me ask it a better way. Was the
 25 value of the U.S. Postal contract to Tailwind equal to

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1 or greater than \$25 million?
 2 MR. HERMAN: Objection, form.
 3 Are you talking about a balance sheet
 4 item or are you talking about what they paid per year?
 5 MR. TILLOTSON: The total sum of the
 6 payments under that contract.
 7 A. It was -- it was -- it was a million less per
 8 year or so than the Discovery contract. So if it was
 9 four years, then, yes, it was more than \$25 million.
 10 Q. (BY MR. TILLOTSON) Now, Mr. Walsh's book.
 11 Have you ever gone through the English -- an English
 12 language translation of Mr. Walsh's book?
 13 A. Pieces of it, yes.
 14 Q. Where did you obtain that translation from?
 15 A. I think our lawyer in France.
 16 Q. Got you a fully translated version or he
 17 translated it and gave you the --
 18 A. He translated it.
 19 Q. I want to show you the version we have which
 20 is there contained in front of you as Respondents'
 21 Exhibit 25. It will be there in front of you.
 22 A. Is that this book here?
 23 Q. Yes, I'm sorry, it will be -- it will be
 24 volume 1.
 25 A. Mr. Bandy's work?

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1 Q. Well, this is a translated version of
 2 Mr. Walsh's book. I want to ask you a couple of
 3 questions. I'm asking you to identify what it is. I
 4 just want to direct your attention to --
 5 A. But I'm asking, was it professionally
 6 translated or did Mr. Bandy do it?
 7 Q. It was obtained from Mr. Walsh, so I assume
 8 that it was professionally translated.
 9 MR. HERMAN: Your Honor, before the --
 10 before Mr. Stapleton is asked to testify from an
 11 exhibit that's not in evidence, I want to make sure
 12 that our objection to the admissibility of this
 13 unauthenticated non-published supposed English
 14 translation of a -- you know, 300 pages of hearsay is
 15 preserved. So if you're going to -- if Mr. Tillotson
 16 wants to ask Mr. Stapleton questions about it, I just
 17 want to make sure that the exhibit does not -- there's
 18 no truth accorded to the exhibit, no authenticity, no
 19 one has authenticated it and it's -- it is by
 20 definition hearsay, an account of Mr. Walsh's
 21 conversations supposedly with people, including
 22 nothing but out-of-court declaration. So I just want
 23 to make sure that the assumption is not made that
 24 anything is true that Mr. Tillotson is asking
 25 Mr. Stapleton about.

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1 ARBITRATOR FAULKNER: Reply?
 2 MR. TILLOTSON: If he says he wants to
 3 preserve his objection regarding the admissibility of
 4 the book, I have no -- I have no position on that.
 5 I'm not going to get the witness to confirm
 6 allegations in the book. I want to direct his
 7 attention to a certain portion that discusses
 8 something he dealt with on direct testimony regarding
 9 his contacts with David Walsh.
 10 ARBITRATOR FAULKNER: Okay.
 11 MR. TILLOTSON: So I want to point him to
 12 that translated version of the book and ask him cross
 13 examination questions on what he's saying.
 14 ARBITRATOR FAULKNER: All right. We note
 15 your objection and it will be overruled.
 16 And please proceed with your questions.
 17 MR. HERMAN: For the purpose of this
 18 examination?
 19 ARBITRATOR FAULKNER: Right, for the
 20 purpose this examination. We know y'all will have
 21 more discussions about this later on.
 22 MR. HERMAN: Thank you, Mr. Chairman.
 23 Q. (BY MR. TILLOTSON) Now, if you'll turn to
 24 the end of the book, or this version of it, beginning
 25 on page 1571, called author's note. Do you see that?

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1 A. I do.
 2 Q. Mr. Walsh says, after leading such an inquiry
 3 we were impatient to get the reactions of Lance
 4 Armstrong, his family, friends and the people
 5 concerned because the information we gathered
 6 contradicts the U.S. Postal leader's declarations.
 7 If you'll turn the page you testified
 8 about this with respect to your direct exam.
 9 MR. TILLOTSON: 1572. There you go.
 10 That's it, Mariela.
 11 Q. (BY MR. TILLOTSON) Mr. Walsh says, second
 12 sentence, we did this some weeks before publication in
 13 order to allow the people concerned to reply to me in
 14 an interview or in fax or in e-mail. Do you see that?
 15 A. Yes.
 16 Q. It says, unfortunately, despite the
 17 importance of the issues raised, nobody found the time
 18 to reply. Bill Stapleton, the lawyer in charge of
 19 Lance Armstrong's interests, finally asked us to send
 20 all questions relating to members of the U.S. Postal
 21 team to him.
 22 Is that true? Did you ask that all
 23 questions come to you?
 24 A. I think I did, yes.
 25 Q. Now, I want to focus for a second on the

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1 timing that you raised in the little chart that
2 Mr. Herman did with you, behind you. It looks to me
3 like Mr. Herman's chart says the first contact was
4 May 28th, 2004. Do you see that in that chart he did,
5 behind you?
6 A. Yes.
7 Q. It's true, is it not, that on May 19th, 2004
8 Mr. Walsh faxed a request for an interview to your
9 office?
10 A. I said that on direct, yes.
11 Q. Okay. So the first contact was not May 28th,
12 the first contact was May 19th?
13 A. Yes, but it was a contact without a return
14 fax or return phone or an e-mail, so it took me three
15 or four days to find Mr. Walsh.
16 Q. Okay. And it was your response to this
17 May 19th inquiry from David Walsh, please put your
18 questions in writing, correct?
19 A. I don't know. I don't know -- I mean, maybe
20 we did that on e-mail once we first -- I don't -- I
21 think it was the May 28 e-mail when I made that
22 request.
23 Q. Let me show you what we have marked as
24 Exhibit 41. I'm going to approach you, keep the book
25 open.

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1 You're familiar with the ongoing British
2 proceeding, correct?
3 A. Yes.
4 Q. And you're familiar with the approved
5 judgment that was entered in the ongoing proceeding on
6 July 12th, 2005, which is Respondents' Exhibit 31?
7 A. Yes.
8 Q. Okay. If you'll turn to what's been marked
9 as page SCA 1128.
10 ARBITRATOR LYON: What exhibit number is
11 that?
12 MR. TILLOTSON: 41.
13 ARBITRATOR FAULKNER: 41.
14 Q. (BY MR. TILLOTSON) Okay. This is -- this is
15 one of the legal proceedings and the judgment that's
16 been written in the ongoing proceedings. This is --
17 the case isn't over, correct?
18 A. Okay.
19 ARBITRATOR LYON: Let me ask you a
20 question about that. I was looking through this
21 earlier.
22 MR. TILLOTSON: Yes, sir.
23 ARBITRATOR LYON: And it doesn't look
24 like it -- it's -- did you attach the whole judgment?
25 MR. TILLOTSON: I believe so.

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1 ARBITRATOR LYON: It just doesn't end
2 with the judge signing anything. It just --
3 MR. TILLOTSON: I don't believe so. I
4 don't think it's -- I believe paragraph 120 is the
5 final one, but I'll be happy to confirm that.
6 ARBITRATOR LYON: Okay. It just stops
7 right there, huh?
8 MR. TILLOTSON: I mean, it says
9 conclusion and stops. I've never seen a signed page.
10 ARBITRATOR LYON: Okay.
11 MR. TILLOTSON: I'll confirm that for you
12 to make sure I have every single page, but I believe I
13 have it all.
14 Q. (BY MR. TILLOTSON) I want to turn you to
15 1128 where they talk about, in the judgment, this
16 particular ongoing -- now, the judgment says on
17 May 19th Mr. Walsh faxed a request for an interview to
18 the office of Mr. Armstrong's agent, you, right?
19 A. Yes.
20 Q. And that is accurate. So it would be fair to
21 say that the actual first contact regarding the book
22 was May 19th not May 28th as reported here; is that
23 right?
24 A. Yes.
25 Q. You had asked for the questions to be in

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1 writing, correct?
2 A. Yes, I did. But I think that is -- there was
3 a back and forth and I think I asked for that on
4 the 28th in the e-mail, but I'm not sure. It was
5 sometime that nine days.
6 Q. And Mr. Walsh agreed to do so, right?
7 A. Yes.
8 Q. And it's reported here that he left a message
9 here on your cell phone asking for an e-mail address
10 but got no reply, correct?
11 A. No, that's not true. We traded phone mails
12 and talked and voicemails that we -- I specifically
13 remember one of the initial conversations we had
14 probably between the 19th and 28th was we did it -- a
15 long form interview with David Walsh in 2001, in
16 April. There were things that he published in that
17 article that were inconsistent with what Lance said in
18 the interview and things that David admitted that he
19 had lied about.
20 I asked him to provide a tape of that
21 interview as a condition of another interview.
22 Because, again, what I thought he was asking for here
23 was a long form interview to be published the Sunday
24 the Tour de France started. So I thought we had six
25 weeks. He was never clear with me why he had this

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1 arbitrary deadline of -- and he never really told me
2 what the deadline was or what he was writing. But
3 the -- the primary condition that I set out to get an
4 interview with Lance -- and remember, this is May,
5 late May of 2004. Lance has five weeks before he's
6 attempting his sixth Tour de France. This is not a
7 time that we do interviews. We do them, but David is
8 not someone on the top of the list when he calls to
9 get an interview. We've had -- so to deal with
10 something like this right before the Tour de France
11 would have been very difficult.

12 But the correspondence and the e-mails
13 will show you that I suggested that we could get
14 together and all sit down before the Tour and
15 suggested that we do that and I thought that would
16 meet his deadline. So what he's trying to allege here
17 is that he gave me every opportunity to respond to his
18 questions and to have a meaningful interview before he
19 published his book. And that's -- that's really one
20 of the underpinnings of the lawsuit in the UK, because
21 he didn't.

22 Q. Let me ask you about that. I appreciate that
23 answer. On May 28th, you got an e-mail from -- he
24 e-mailed -- David Walsh e-mailed Mr. Armstrong
25 directly, correct? You're aware of that?

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1 A. Yeah, he did, yes.

2 Q. And he e-mailed these eight questions --

3 A. I don't think that he had the right e-mail
4 address for Lance. I don't think he did, but he did
5 attempt to e-mail Lance.

6 Q. Also at the same time he sent ten questions
7 on topics to Johan Bruyneel, correct?

8 A. Yes.

9 Q. And so eight questions to Mr. Armstrong
10 identified here in this judgment, ten questions to
11 Mr. Bruyneel. That same day you e-mail him back and
12 say you'll talk to Mr. Armstrong and get back to
13 Mr. Walsh in a few weeks, correct?

14 A. That's right.

15 Q. And you ask for the first time that you want
16 the tape from the 2001 interview, correct?

17 A. Correct.

18 Q. It also reports here in paragraph 11 that
19 then on June 2nd you tell Mr. Walsh that an interview
20 just would not be possible over the next week; is that
21 right?

22 A. Right. And that's because the Dauphine was
23 coming up and, again, I was still assuming that we
24 could do this two or three days before the Tour in
25 early July.

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1 Q. You also expressed disappointment that he
2 couldn't find this tape from '01?

3 A. I was very disappointed about that.

4 Q. And you threatened -- suggested that you were
5 willing to pursue legal options if not treated fairly
6 and given adequate opportunity to respond; is that
7 right?

8 A. Given our history, that's -- yeah, that's
9 exactly what I did. And this is not an adequate --
10 this is -- you can't respond to this adequately on
11 e-mail.

12 Q. Well --

13 A. So I kept suggesting we need to have an
14 interview.

15 Q. At no --

16 A. And Lance deserved -- if he was going to make
17 another scurrilous, house of cards argument like he
18 did in 2001, that Lance takes drug, that Lance should
19 be able to sit down with his lawyers and with David
20 and have a meaningful interchange and interview and
21 face his accusers. You know, David spent a year and a
22 half researching a book and then gave us 10 or 12 days
23 to respond to it.

24 Q. But at no time did you answer the questions
25 that were posed here, these eight questions in the

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1 e-mail, correct?

2 A. No, I did not answer these on e-mail.

3 Q. So written response to these prior to the
4 parties instituting litigation to get Mr. Armstrong's
5 response to these eight questions; fair?

6 A. Well, no. I mean, the litigation was
7 commenced after the article was published in the
8 Sunday Times prior to the Tour. It was basically --
9 what David is now admitting that he wrote for a sports
10 writer that was -- it's bylined Alan English but it's
11 admitted now in this case that David actually wrote
12 that for him. And in that article he detailed some of
13 the most serious allegations that he makes in the
14 book. That's when the litigation was commenced.

15 Q. Now, you will agree with me that Mike
16 Anderson was close to Mr. Armstrong for a portion of
17 their employment?

18 A. Close is a relative term, but he worked for
19 Lance. They spent a lot of time together because, you
20 know, Lance would be on the bike and Mike would be in
21 the car behind him. So I wouldn't say he was close,
22 but he definitely had a close working relationship
23 with Lance for a period of time.

24 Q. And Mr. Armstrong was close to Frankie Andreu
25 when he was on the team as a teammate, correct?

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1 A. Yes.
 2 MR. TILLOTSON: Pass the witness.
 3 Thank you, Mr. Stapleton.
 4 RE-DIRECT EXAMINATION
 5 BY MR. HERMAN:
 6 Q. Mr. Stapleton, just a few questions. It's
 7 been said that --
 8 MR. TILLOTSON: Before you start, I want
 9 credit. 31 minutes
 10 MR. HERMAN: Oh, okay. You'll get all
 11 the credit you deserve I can assure you.
 12 ARBITRATOR CHERNICK: Very generous of
 13 you, Mr. Herman.
 14 MR. TILLOTSON: Sorry to interrupt.
 15 Q. (BY MR. HERMAN) Mr. Armstrong has been
 16 referred to in many quarters as the most -- by some as
 17 the greatest athlete in the world, by some as the most
 18 famous athlete in the world and certainly given the
 19 worldwide nature of his sport, he may be the most
 20 recognizable athlete in the world. Do you agree?
 21 A. I do.
 22 Q. Is it unusual in your experience that people
 23 want to bring -- would love to bring him down, certain
 24 people for whatever reason?
 25 A. Yes. I mean, I think that's true of anybody

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1 that attains an enormous amount of success, especially
 2 in Lance's case because he has -- there are people
 3 that have been in his life who have either been fired,
 4 or -- you know, when you run a professional sports
 5 team, they get terminated and they've left many times
 6 with a bad taste in their mouth and with a vendetta
 7 against Lance -- not a -- not even a vendetta -- well
 8 some people have a vendetta, but they want to take him
 9 down. And I think part of that is because it is --
 10 you know, because he's an incredibly successful
 11 athlete, but also because he's -- he's a symbol of
 12 hope to so many people and it's a pretty big halo.
 13 Q. And the fact that his crowning achievements,
 14 if you will, at least those which have brought the
 15 most attention have occurred on foreign soil as
 16 opposed to his maiden soil, is that -- has that
 17 contributed, in your view, to -- for example, the
 18 French animosity, Mr. Montbrial saying that the French
 19 police are out to get him and that kind of thing?
 20 A. Absolutely. I mean, I think the French
 21 public voted last year that Lance was still the number
 22 one athlete in France, but there are the media,
 23 especially in Paris, two newspapers really, where that
 24 sort of hatred centers. You know, imagine a French
 25 baseball team winning the World Series every year. It

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1 has driven them to question and in many cases, I think
 2 their media -- that they've just lost any professional
 3 objectivity on the matter.
 4 Q. Speaking of awards and that sort of thing,
 5 Mr. Armstrong, I think, this year was named by the
 6 associated press as -- for the fourth consecutive year
 7 as its athlete of the year?
 8 A. That's right.
 9 Q. These are contemporaries or peers of
 10 Mr. Walsh, that is sports writers all over?
 11 A. Uh-huh.
 12 Q. And numerous other similar awards?
 13 A. Sure.
 14 Q. Agreed?
 15 A. Sure.
 16 Q. The information that's in LA Confidential,
 17 the allegations that are -- that's in LA Confidential,
 18 have been out there at least for the last two years,
 19 two racing seasons at least?
 20 A. Sure.
 21 Q. Based upon those people who are closely
 22 affiliated with the cycling world and so forth, you
 23 would assume that they're familiar with the same
 24 allegations?
 25 A. Yes, of course.

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1 Q. Now, do you remember when Mr. Tillotson was
 2 asking you what -- in a way that at least I
 3 interpreted as being somewhat critical of Tailwind for
 4 not finding some way not to be liable to Mr. Armstrong
 5 for the 2004 bonus; do you recall that?
 6 A. Yes.
 7 Q. Is there -- why haven't you tried to find
 8 some way or create some reason why you might not be
 9 liable, as you clearly are under the terms of your
 10 agreement?
 11 A. Well, we have a contract with Mr. Armstrong.
 12 We owe him \$5 million. It's no different than the
 13 other contract. Whether it's an insurance company,
 14 whether the DTPA is involved, whatever it is, it's not
 15 our job to go and find a way not to pay him. And to
 16 me our liability is the same as the liability of SCA,
 17 which is he won the bike race, and the contract says
 18 if he wins the bike race, we've got to pay him \$5
 19 million. And as we sit here today we owe him 5
 20 million bucks and we owe him interest on that money,
 21 and the problem is not going to go to away for
 22 Tailwind.
 23 Q. In what kind of position would it leave
 24 Tailwind if you're obligated to pay the \$5 million
 25 plus interest or whatever as well as having to defend

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1 this lawsuit and for whatever reason SCA was able to
2 wriggle off the hook with Tailwind?
3 A. It would be really bad. I mean, it could be
4 bankruptcy. It could be the end of the bike team.
5 You know one of the hardest things here, and I think
6 Lance talked a little bit about this, we have 60 or 65
7 employees. We have -- you know, it's not just -- we
8 have 27 riders, we have the directors, we have
9 mechanics, we have the bus drivers, we have the people
10 who run the service course. If we -- if we don't get
11 this money from SCA, that -- those jobs are probably
12 going to go away.
13 Q. Let me ask you, just directly, are you, in
14 this case, attempting to hold SCA to any different
15 standard than you hold yourself to with respect to
16 your contract with Armstrong?
17 A. No.
18 Q. And, of course, it's only Tailwind that has
19 the contract with SCA?
20 A. That's correct.
21 Q. Have you -- had Tailwind known in January of
22 2001 that even if Tailwind were -- even if Armstrong
23 were the official winner and Tailwind incurred the
24 liability, that SCA would refuse to pay, what would
25 you have done?

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1 A. Well, I -- I wasn't the COO of Tailwind, but
2 I would have found another insurance company.
3 Q. Has Tailwind, since 2001, relied upon the
4 promise of SCA to pay what it -- what it said it would
5 pay?
6 A. Absolutely.
7 Q. Now, let me change gears a little bit.
8 Mr. Tillotson suggested that -- and I can't remember
9 the -- I don't know that I've got the correct
10 Respondents' exhibit number, but this article in
11 February 2002 indicating that all of the medical
12 records relating to all of the team members of the
13 Postal Service team would not be turned over to the
14 French authorities or whatever. Do you recall that?
15 A. I do.
16 MR. TILLOTSON: Respondents' Exhibit 87.
17 MR. HERMAN: Respondents' Exhibit 87,
18 okay. Thank you.
19 Q. (BY MR. HERMAN) Do you recall Claimants'
20 exhibit -- the number of which I don't have either,
21 but the April 1, 2001 press conference that
22 Mr. Armstrong held in Paris?
23 A. I do.
24 Q. He was in Paris and he referenced two earlier
25 pieces of correspondence to the judge offering to make

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1 him and the team available any time, any place, in
2 France for the inquiry?
3 A. Yes.
4 ARBITRATOR CHERNICK: That's Claimants'
5 120.
6 MR. HERMAN: Claimants' 120?
7 ARBITRATOR CHERNICK: Yes.
8 MR. HERMAN: Thank you, Mr. Chernick.
9 Q. (BY MR. HERMAN) And was there at any time
10 any reluctance to make not only himself but for the
11 team to make all of their members available for that
12 inquiry?
13 A. No, and I think, you know, the panel needs to
14 understand, hopefully the time line here. This was an
15 investigation into drug taking by the U.S. Postal
16 team, no other team. The 2000 Tour de France was in
17 July 2000. There was no EPO test then. We found out
18 in November that the investigation had been launched,
19 November -- November 2000, and they had seized from
20 the French laboratory the urine samples of the Postal
21 Team from the 2004 Tour de France.
22 MR. BREEN: You said 2004.
23 A. I'm sorry, 2000 Tour de France, the second
24 Tour for Lance. Worldwide news, big media hit. SCA
25 enters into their contract with Tailwind in

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1 January 2001. In April of 2001 Lance goes to Paris
2 and makes a statement that I'm available and my team's
3 available. I'll meet with the judge any time,
4 anywhere in France. Here I am. I'm going to race my
5 bike race in France that starts this week. I'll be
6 back for the Paris-Nice. I'll be back for the
7 Dauphine in June. I'll be back for the Tour de
8 France. No response from the judge.
9 Sometime that fall, after the Tour, so
10 the investigation was already a year old, it leaks out
11 at the laboratory that the urine samples have all been
12 tested now -- and mind you to test a urine sample for
13 EPO, it doesn't take more than a day. So this was a
14 year later that it leaks out that they have -- that
15 all the samples are clean. And the next thing we get
16 is a request from --
17 Q. Was it just urine samples?
18 A. Just urine at this point.
19 The next thing we do is we get a request
20 sometime that spring to have the blood samples that
21 were at the UCI that were taken during that same Tour
22 de France released. We didn't have to say yes to
23 that. We said yes.
24 So fast forward another six months, it's
25 now February or so of 2002. You know, we are 15 to 17

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1 months into this investigation, they've had his blood,
 2 they've had the urine, they're all clean. And now the
 3 prosecutor in Paris wants all of their medical
 4 records. And at that point our lawyer said enough is
 5 enough. And rather than standing up and saying we
 6 tested all the samples and they're all clean, what
 7 they did was they said we tested all the samples, they
 8 were clean, but we can't go any further because they
 9 won't cooperate, and that's how the investigation was
 10 dismissed.
 11 We had been cooperating for a year and a
 12 half and it was turning into a -- something that was
 13 just -- it had gotten on the point of ridiculousness.
 14 And our lawyer in Paris said, look, that's it.
 15 Q. Well, at the time the samples were given and
 16 collected, both urine and blood, there was -- there
 17 was not to be any tests for EPO at the 2000 Tour,
 18 correct?
 19 A. That's correct. And that's a critical point.
 20 Q. And why is that so critical?
 21 A. Well, if -- you know, if there's no test for
 22 a drug, you can take it and get away with it,
 23 especially if you don't know your samples are being
 24 saved. Nobody knew their samples were being saved
 25 from the 2000 Tour de France. And they had those

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1 samples for a year and a half, urine and blood, and
 2 they were all clean.
 3 And what do you hear from people like
 4 David Walsh? They were too clean. We need to see his
 5 medical records just to make sure there's not
 6 something that's making them too clean.
 7 Q. Well, you mentioned that the team was
 8 requested to allow the -- the UCI to test these
 9 samples, correct?
 10 A. Correct.
 11 Q. And Mr. -- there was no compulsion for you to
 12 agree?
 13 A. No, there wasn't.
 14 Q. Were any other riders that competed in the
 15 2000 tour -- were they tested for EPO?
 16 A. No.
 17 Q. You heard Mr. -- Mr. Tillotson talked to you
 18 about the certain select UCI provisions, certain
 19 select WADA provisions. Do you recall that?
 20 A. I do.
 21 Q. Do you recall being shown those portions of
 22 the codes that absolutely require both an A and B
 23 sample?
 24 A. No.
 25 Q. Do you recall -- do you recall being shown

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1 those provisions that for any test to be used that the
 2 athlete has to be given the opportunity to be present
 3 at the testing of the B sample with his
 4 representative?
 5 A. No.
 6 Q. Do you recall reviewing for Mr. Tillotson the
 7 absolute requirement for chain of custody?
 8 A. No.
 9 Q. Do you recall reviewing the absolute
 10 prohibition against using samples for research
 11 purposes?
 12 A. No.
 13 Q. With respect to the 2000 samples which were
 14 unexpectedly frozen and utilized, all of those
 15 protocols were followed, were they not?
 16 A. They were.
 17 Q. With this '99 story in this French magazine
 18 or paper or whatever, do you have -- was there any
 19 chain of custody?
 20 A. No, absolutely not. And the lab has admitted
 21 that.
 22 MR. TILLOTSON: Well, I object to the
 23 last part, and the lab has admitted that, it's
 24 speculation and hearsay, and move to strike that.
 25 MR. HERMAN: Well, we are not --

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1 ARBITRATOR FAULKNER: Go ahead and
 2 explain.
 3 MR. HERMAN: We are not offering it for
 4 the truth of the matter, but that's what was reported
 5 in the -- in L'Equipe in any event; is that right?
 6 THE WITNESS: It's been reported to me.
 7 ARBITRATOR FAULKNER: Does that satisfy
 8 your --
 9 MR. TILLOTSON: That's fine.
 10 ARBITRATOR FAULKNER: Okay.
 11 Q. (BY MR. HERMAN) Now, let me switch topics
 12 with you a little bit. Mr. Tillotson he talked pretty
 13 fast, sometimes, you know, it's hard to pick up
 14 everything.
 15 A. He's pretty slick.
 16 Q. Well, when he represented to you that
 17 Claimants' Exhibit 124, which is the compilation of
 18 the articles just from the Dallas Morning News from
 19 November 30, 2000 through January 5, 2001, that when
 20 he represented to you that every article had a quote
 21 from somebody with Tailwind, that -- and I think you
 22 agreed with him, but since then have you had an
 23 opportunity to review those?
 24 A. I have.
 25 Q. And that's not true, is it?

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1 A. No, I think only two them do.
2 Q. Two out of the six articles?
3 A. Yes.
4 Q. And the other articles were reports or
5 whatever?
6 A. Right.
7 Q. Incidentally, Mr. Tillotson focused on the
8 statements of Tailwind in those two articles. You
9 were here when Mr. Hamman testified, were you not?
10 A. I was.
11 Q. And what is -- what's your recollection -- or
12 what was your purpose of him -- of showing those
13 articles and the -- and the publicity in Dallas?
14 A. Well, two things. One Mr. Hamman stated that
15 had he known about the French investigation, he would
16 have never done the deal, so to show that. And number
17 two, to show that anybody that did any due diligence
18 on Lance and the team in January -- December, January
19 2000, 2001, if they had simply Googled Lance
20 Armstrong, who you're betting nine and a half million
21 dollars on, it would have been right there. It would
22 have been the only thing that came up.
23 Q. Let me -- let me talk to you a little bit
24 about Mr. Tillotson's line of inquiry basically
25 that -- well, when you're talking to Coca-Cola or

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1 Bristol-Myers Squibb or Nike or someone and looking
2 them, as you put it, eye-to-eye and discussing the
3 issue that SCA has raised after the fact, that that is
4 different from having an article in the paper, but
5 it's the same thing. So do you recall that line of
6 inquiry?
7 A. I do. And the difference is that I said that
8 the conversations that we have are more in-depth. The
9 more significant difference is that when I say that to
10 the chief marketing officer of Bristol-Myers Squibb or
11 the CEO of Nike, I intend for them to rely on what I'm
12 saying. I'm saying that so that they will believe me
13 and that they'll rely on it.
14 Q. Now, let me just read a couple of things to
15 you. When a statement of yours is picked up by a
16 newspaper and put in the paper, is that statement when
17 you said -- was it made with the special likelihood
18 that it would reach SCA or insurance companies?
19 A. No.
20 Q. Was it made with the intent to influence
21 SCA's conduct or their business decisions?
22 A. No.
23 Q. When those statements were published, were
24 they published with the expectation that SCA's conduct
25 would be influenced in an insurance context?

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1 A. No.
2 Q. And in your view is there any conceivable way
3 that in a nine and a half million dollar transaction a
4 company would either actually or justifiably rely upon
5 what they read in the paper?
6 A. No.
7 Q. Now, Tyler Hamilton, he wasn't on the U.S.
8 Postal team in 2004, was he?
9 A. He wasn't on it in 2003 or 2004.
10 MR. HERMAN: Would you put up
11 Respondents' 54, please, Lynn? If you would go
12 from -- three pages from the back that second
13 paragraph. Yes, thank you.
14 Q. (BY MR. HERMAN) We have been over this in --
15 briefly earlier, but this is from Cycle Sport. Tell
16 us what the circulation is for Cycle Sport and how
17 widely it's read with -- at least with cycle
18 journalists?
19 A. It's -- it's published in the UK. It is read
20 by anyone and everyone that follows cycling. So in
21 the United States we have VeloNews, which is a
22 publication -- an American publication. This would be
23 a much more in-depth worldwide publication about
24 cycling and it's very widely read by anyone who
25 follows cycling. All of the cycling media would read

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1 this. So it's widely circulated.
2 Q. Do you know whether David Walsh was a
3 contributing editor to Cycle Sport?
4 A. I believe he was.
5 Q. Now, this article is from January 1998.
6 MR. HERMAN: Would you highlight that
7 last sentence of that first paragraph, please? Right
8 there. Thank you.
9 Q. (BY MR. HERMAN) Tell us a little bit
10 about -- well, you were aware in '98 and before that
11 Dr. Ferrari was a well known and highly thought of
12 trainer with respect to elite athletes, particularly
13 endurance athletes, correct?
14 A. Yes.
15 Q. He didn't -- he was -- strike that.
16 He trained marathoners, cross country
17 skiers, a variety of endurance athletes, did he not?
18 A. Yes.
19 Q. Now, this article says he still trains a
20 string of stars, including giro winner Ivan Gotti.
21 Tell the panel who Ivan Gotti is.
22 A. He's an Italian who won the Tour of Italy.
23 Q. Is he the Lion King or is the Lion King a
24 different cyclist?
25 A. No, that's Mario Cipollini. Cipollini is an

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1 Italian. Gotti and Cipollini actually are both
 2 Italians. Gotti is a stage racer that won the Tour of
 3 Italy. Cipollini may be the most famous sprinter
 4 ever. I think he has won as many stages or more of
 5 the Tour de France than anyone. And both of those
 6 guys testified in the Ferrari trial that he never gave
 7 them any performance enhancing drugs either.
 8 Q. Cipollini -- I know they're both famous, but
 9 Cipollini is an extremely famous European cyclist,
 10 isn't he?
 11 A. Yes, yes.
 12 ARBITRATOR LYON: Is it chip or sip?
 13 THE WITNESS: Cipollini.
 14 ARBITRATOR LYON: I just wanted to make
 15 sure -- to be sure Mr. Herman got it right.
 16 MR. HERMAN: That's entirely by
 17 coincidence, but as they say a stopped clock is right
 18 twice a day, but anyway...
 19 Q. (BY MR. HERMAN) What is that, O-N-C-E?
 20 A. ONCE.
 21 Q. And, again -- you've got 27 riders on
 22 Discovery. Would they have a similar number?
 23 A. Yes, it's one of the biggest teams in the
 24 world, the Spanish team.
 25 Q. And American Lance Armstrong.

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1 Would anyone, including Mr. Walsh, any
 2 journalist, had they read Cycle Sport, have known
 3 about this in 1998?
 4 A. Absolutely. And if it was -- that's kind of
 5 what I was trying to point out to the panel earlier.
 6 If this was as scandalous as David Walsh has made
 7 it -- if it was scurrilous, if it was sinister, Sam
 8 App from the New York Times or Bonnie De Simone from
 9 the Chicago Tribune or someone would have written that
 10 this was scandalous.
 11 It wasn't scandalous until David Walsh
 12 made it notorious and made it scandalous. It was not
 13 newsworthy until David wrote his article and tried to
 14 make it newsworthy.
 15 Q. Is it -- do you find it offensive at all,
 16 Mr. Stapleton, that in -- at least in Dallas, Texas,
 17 the United States of American, that people would try
 18 to convict someone by association?
 19 A. I do.
 20 Q. You know who Eddie B. is?
 21 A. Yes.
 22 Q. He was a famous cycling coach, was he not?
 23 A. Yes, he was.
 24 Q. He coached hundreds, maybe thousands of
 25 Olympic athletes, did he not?

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1 A. He did.
 2 Q. And he was involved in some sort of a doping
 3 scandal, was he not?
 4 A. Uh-huh, yes.
 5 Q. He was Greg LeMond's coach, for example, for
 6 a period of time?
 7 A. He was.
 8 Q. And do you think it would be fair to paint
 9 Greg LeMond and all of the athletes that trained with
 10 Eddie B. as dopers, because for shorter or longer
 11 periods of time he was -- he was their coach?
 12 A. No, I don't.
 13 Q. Incidentally, Mr. Tillotson asked you about
 14 Filippo Simeoni. He testified against Dr. Ferrari in
 15 the trial, did he not?
 16 A. He did. He was the only rider, I believe,
 17 that testified that Ferrari had either provided or
 18 prescribed doping products.
 19 Q. And incidentally, in that Ferrari trial they
 20 had records of Mr. Armstrong available, did they not?
 21 Tests that Dr. Ferrari had done on Mr. Armstrong?
 22 A. I believe they did.
 23 Q. And at no time was there ever any implication
 24 that Dr. Ferrari had ever engaged in any suspicious or
 25 prohibitive conduct with Mr. Armstrong; isn't that

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1 true?
 2 A. That's right.
 3 Q. Of course, Simeoni admitted to having used
 4 performance enhancing substances long before he ever
 5 started training with Dr. Ferrari?
 6 A. That's right.
 7 Q. Incidentally you were here, I think, when
 8 Mr. Armstrong testified, it was not until after the
 9 '95 racing season that he even consulted or had
 10 Dr. Ferrari help him with his training, isn't that
 11 true?
 12 A. Yeah, I think he met him that winter at a
 13 training camp in San Diego.
 14 Q. Okay. You mentioned the Walsh tape from the
 15 2001 interview that you wanted to review and
 16 Mr. Walsh's response to that was?
 17 A. Well, initially it was, I think I have it and
 18 I'll look for it. And we did this on voicemail and --
 19 I remember I was in New York and we had a -- one of
 20 the conversations about it, and he thought he had it,
 21 when I said I wanted to review it. We had asked him
 22 for it in the past, but like I said, now he wanted
 23 something, so I thought maybe he would let us see it,
 24 so he came back a few days later and said that he had
 25 just thrown it away. He just remembered that he had

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1 just thrown it away so he didn't have it.
 2 Q. Okay.
 3 A. But it was a shame because he had kept it for
 4 so long.
 5 Q. Well, let me ask you finally, Mr. Tillotson
 6 talked to you about, you know, you're not a coach,
 7 you're not a trainer, et cetera, et cetera. Is there
 8 any conceivable way that Mr. Armstrong could have used
 9 performance enhancing substances without you knowing
 10 it, and if not, why not?
 11 A. There -- I have spent 11 years with Lance.
 12 I've seen it all. I'm with him, you know, every
 13 public appearance we do. I'm at the Tour the entire
 14 time. I've been to France when he lived over there,
 15 many times visited with him and his family. It is
 16 inconceivable to me that that could be going on and I
 17 wouldn't know about it. It just can't be true.
 18 Q. Well, some might argue that you would do
 19 anything to protect him, you might even come in here
 20 and not tell the truth under oath?
 21 A. I wouldn't do that.
 22 MR. HERMAN: Thank you. I pass the
 23 witness.
 24 ARBITRATOR CHERNICK: I have a question.
 25 In connection with the French

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1 investigation which started in the fall of 2000, that
 2 was with respect to the 2000 Tour de France?
 3 THE WITNESS: Yes, sir.
 4 ARBITRATOR CHERNICK: And at the time of
 5 the 2000 Tour de France EPO was not tested?
 6 THE WITNESS: That's right.
 7 ARBITRATOR CHERNICK: There was not a
 8 test for EPO?
 9 THE WITNESS: Yes. There was one later
 10 the next year or that fall that was being developed,
 11 but it was not available at the Tour.
 12 ARBITRATOR CHERNICK: Do you have an
 13 understanding as to the legality of the use of EPO
 14 during the 2000 Tour de France?
 15 THE WITNESS: It was prohibited.
 16 ARBITRATOR CHERNICK: It was prohibited.
 17 THE WITNESS: Yes.
 18 ARBITRATOR CHERNICK: Because you made a
 19 comment something to the effect of -- I may have
 20 misunderstood this, that if there's no test for it,
 21 it's okay to use it.
 22 THE WITNESS: Oh, no, I didn't mean to
 23 imply that at all.
 24 ARBITRATOR CHERNICK: Okay. So even
 25 though -- even though it wasn't testable, had there

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1 been some proof in whatever -- by whatever means that
 2 someone used EPO in 1999 or 2000, that would be a
 3 disqualifying act, notwithstanding that there wasn't a
 4 test for that in 1999 and 2000?
 5 THE WITNESS: That's correct.
 6 ARBITRATOR CHERNICK: Thank you. Okay.
 7 ARBITRATOR FAULKNER: Any questions?
 8 ARBITRATOR LYON: Yes.
 9 Betsy Andreu, is that the correct
 10 pronunciation?
 11 THE WITNESS: It's Andreu.
 12 ARBITRATOR LYON: Okay. In that
 13 transcript it talks about she and Lance Armstrong had
 14 a fight or disagreement at Amstel Light?
 15 THE WITNESS: Amstel Gold. Amstel Light
 16 would be better, but...
 17 ARBITRATOR LYON: What was that all
 18 about? Do you know anything --
 19 THE WITNESS: I know a little bit and I
 20 don't know Betsy, I've only met her once, but it was
 21 Frankie and Lance that had the disagreement. It was
 22 about when -- it had something to do with when Lance
 23 got married to Kristin and they moved to Gerona,
 24 Spain. There were a number of cyclists that lived
 25 there with wives and girlfriends, and there had been

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1 some sort of a falling out between Kristin and Betsy.
 2 I don't know exactly what it was. And I know that
 3 that led to a sort of at the start line argument
 4 between Frankie and Lance, and I know that -- that
 5 Betsy really didn't like Lance.
 6 ARBITRATOR LYON: Okay. With these three
 7 people have you -- this Anderson fellow, Andreu and
 8 Swart, none of them testified that they ever saw Lance
 9 Armstrong use any type of performance enhancing drugs,
 10 is that -- have you read that?
 11 THE WITNESS: No one has ever testified
 12 that they've seen Lance do that. Specifically these
 13 three haven't and they'll tell you they have no direct
 14 evidence.
 15 ARBITRATOR LYON: Okay.
 16 THE WITNESS: David Walsh will tell you
 17 he has no personal knowledge of anything. It's all
 18 speculation.
 19 ARBITRATOR LYON: Okay. In regard to
 20 SCA -- and I've read the transcript of that hearing on
 21 December 20th, you were there?
 22 THE WITNESS: I was.
 23 ARBITRATOR LYON: Okay. Your testimony
 24 is that they did not deny the claim that day.
 25 THE WITNESS: Uh-huh.

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1 ARBITRATOR LYON: Do you know when, if
 2 ever, or can you give me a date when you believe they
 3 denied the claim?
 4 THE WITNESS: Well, in their pleadings in
 5 April of 2005, I think they -- I think they denied the
 6 claim there.
 7 ARBITRATOR LYON: Okay.
 8 THE WITNESS: Although I think there's
 9 now some misunderstanding about maybe later some
 10 statements they made that maybe they hadn't denied the
 11 claim yet.
 12 ARBITRATOR LYON: Now, in regard to Greg
 13 LeMond. Greg LeMond is an endorser of Trek bikes; is
 14 that right?
 15 THE WITNESS: That's correct. He's --
 16 Trek produces a brand of bikes, they have the Trek
 17 brand, they have the Gary Fisher brand, they have the
 18 LeMond brand of bike produced by Trek.
 19 ARBITRATOR LYON: And before Lance
 20 Armstrong -- and they also do Lance Armstrong bikes,
 21 don't they?
 22 THE WITNESS: They do Trek bikes endorsed
 23 by Lance Armstrong.
 24 ARBITRATOR LYON: Okay. Do you know --
 25 and without getting into any proprietary information,

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1 I mean, I've read something in all this stuff that
 2 Greg LeMond's yearly accruals are \$350,000 a year from
 3 Trek for the bikes that he sells, he gets like some
 4 percent or something.
 5 THE WITNESS: Yeah, I think that's fairly
 6 accurate.
 7 ARBITRATOR LYON: And before Lance
 8 Armstrong ever came along, he was the head honcho in
 9 the United States as far as bike goes -- bikes go.
 10 THE WITNESS: Yes.
 11 ARBITRATOR LYON: How many -- how many
 12 bikes does that equate to for LeMond? Does he get a
 13 dollar a bike or something? I think I read that
 14 somewhere.
 15 THE WITNESS: That sounds pretty close.
 16 If I just do the math on how many I think are sold,
 17 probably more than that. Probably closer to \$10 a
 18 bike.
 19 ARBITRATOR LYON: How many bikes does
 20 Armstrong sell in the United States and worldwide?
 21 THE WITNESS: Well, the Trek brand, when
 22 we -- you know, when we created the marketing
 23 relationship with Trek, we put Lance's banner around
 24 the entire brand. I didn't want an Armstrong line of
 25 bikes. I wanted him to endorse what I think is the

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1 best bike in the world. So I don't know how many, but
 2 the number of Trek bikes sold versus LeMond bikes is,
 3 I would guess, ten times.
 4 ARBITRATOR LYON: Okay.
 5 THE WITNESS: And the LeMond bikes, until
 6 this past year, were made with titanium. I'm maybe
 7 getting too technical, but titanium is a type of alloy
 8 that isn't used as much anymore. So -- but the bikes
 9 that Lance rides are made of carbon and that's the
 10 preferred sort of alloy now.
 11 ARBITRATOR LYON: The French prejudice
 12 or -- against Mr. Armstrong, can you give me some
 13 examples of that?
 14 THE WITNESS: Well, I -- like I said, if
 15 you go to France and you go out to dinner with Lance,
 16 people adore him there. So this -- this perception
 17 that it's the French people that hate Lance is just --
 18 it's inaccurate. They love him.
 19 Now, if you're a Dallas Cowboy's fan and
 20 you go to dinner in Philly, once in a while, you know,
 21 people are going to say stuff, but it's -- I've
 22 only -- there are a few sort of -- if you go to the
 23 fans and the public, there are a few people who stand
 24 out in the road and say, you know, dooper and things
 25 like that.

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1 But, you know, they're going to do that
 2 to Lance and they're going to do that to Ulrich, and
 3 it's the media. And the examples of that are going
 4 all the way back to '99. The guy survives cancer and
 5 he wins the Tour de France and the two papers there,
 6 that Lemonde and l'Equipe headlines: Deux Vitesse.
 7 Two Speeds. That was what they said in '99. There's
 8 two speeds in the Peloton, Lance's speed and everybody
 9 else's, and he is from the moon. They said he is from
 10 the moon and it's impossible. And so that line of
 11 questioning began in '99. You know, he's in many ways
 12 a victim of circumstance, because he hadn't won the
 13 Tour and he hadn't -- he hadn't finished the Tour
 14 before '99. He had never been a factor in the overall
 15 classification and that was really due to age.
 16 Then he gets sick in '96 and he doesn't
 17 compete in the Tour again until '99. And at that
 18 point he's now 28 years old at the beginning of your
 19 prime really to be a Tour rider and -- and also,
 20 frankly, in '99, if you look at it, it was a weak
 21 field. Ulrich wasn't there and Pantani wasn't there.
 22 So Lance was -- you know, the stars lined up and those
 23 people began to question, and it's never stopped.
 24 ARBITRATOR LYON: Now, you were vice
 25 president of the U.S. Olympic Committee in the United

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1 States?
2 THE WITNESS: I was.
3 ARBITRATOR LYON: Okay. I know at the
4 Salt Lake City Olympics in Atlanta -- I know this from
5 personal experience, they actually test -- searched
6 the baggage of the Olympians as they come in -- I'm
7 sure you're aware of that --
8 THE WITNESS: Yes, that's right.
9 ARBITRATOR LYON: To look for any type of
10 prohibitive substance or anything that even could
11 be -- contribute to one of those. But they do that at
12 this -- at the Tour de France?
13 THE WITNESS: There are --
14 ARBITRATOR LYON: Do they search the bags
15 and all that kind of stuff?
16 THE WITNESS: Yes. And any medicine
17 that's brought in to the Tour has to be approved by
18 ASO, the organizer, and by the French government. So
19 the doctor, if he wants to bring saline or he wants to
20 bring vitamin B shots for the riders, stuff like that.
21 All of that has to be approved through by the French
22 government.
23 But, yes, you couldn't walk around with
24 bags full of syringes and EPO at the Tour de France
25 and not get caught.

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1 ARBITRATOR LYON: Okay. I don't think I
2 have any other questions.
3 ARBITRATOR FAULKNER: Thank you. I don't
4 have any.
5 MR. TILLOTSON: I did, I'm sorry. I want
6 to just --
7 ARBITRATOR FAULKNER: Please ask your
8 questions.
9 RE-CROSS EXAMINATION
10 BY MR. TILLOTSON:
11 Q. If in 1998 -- January 1998 -- well, let me --
12 let me back up. If in the end of 2000, the first part
13 of 2001 I was doing due diligence on Lance Armstrong
14 to decide if I wanted to make a nine and a half
15 million dollar bet on him, is it your testimony that a
16 part of the reasonable due diligence would be to read
17 Cycle Sport, to look at Cycle Sport for articles about
18 Mr. Armstrong?
19 A. For nine and a half million bucks I would
20 read Cycle Sport, yeah.
21 Q. If I was to read Cycle Sport and in
22 particular this one January 1998, and I was to read
23 the article written by Mr. Armstrong in Cycle Sport,
24 there would be no mention of his relationship with
25 Dr. Ferrari; agreed?

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1 A. Agreed.
2 Q. And I would have to actually read all the way
3 to the end and decide that in connection with an
4 article about Tommy Rominger?
5 A. Tony.
6 Q. Tony, sorry -- Tony Rominger, that somewhere
7 in there might be something that I would need to know
8 about Lance Armstrong, correct?
9 A. Well, that's one thing I would do, yeah.
10 Q. And if I read this entire article, it would
11 not be until the end in an article about Tony
12 Rominger --
13 A. Right. Well --
14 Q. -- that I would find a reference to
15 Mr. Armstrong finally, correct?
16 A. That's correct. Although if you Google him,
17 you would have found plenty about a French
18 investigation at the time.
19 Q. Okay. Well, with respect to Dr. Ferrari,
20 that's where this mention is in this particular --
21 A. Yes.
22 Q. Okay. Now, let me ask you something else
23 about -- about what you said that you went back and
24 you checked me on my little graphic I did here and you
25 found that in only two of the six articles was there

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1 actually a denial by Mr. Gorski on behalf of Tailwind.
2 Do you recall that redirect testimony?
3 A. Yes.
4 Q. Well, it's true, is it not, that Tailwind
5 endorses and adopts what Mr. Armstrong says regarding
6 his non-use of performance enhancing drugs?
7 A. Endorses or adopts?
8 Q. It says, we adopt those statements, that's
9 true.
10 A. They've always made their own independent
11 statements. I don't know exactly where you're going
12 with that. I know they agree with it.
13 Q. Well, for example, I couldn't hear what
14 Mr. Armstrong said or read what Mr. Armstrong said and
15 conclude from that, I have no idea if Tailwind
16 supports that. They are one and the same when it
17 comes to statements about Mr. Armstrong's non-use of
18 drugs, Mr. Armstrong and Tailwind, fair?
19 A. Well, no. I mean, I think typically what
20 you'll see out of the Tailwind statement is a -- is a
21 comment about all the riders on the team. And what
22 you'll see Lance do is a personal denial. Those two
23 interests align. I don't think that it can be said
24 that any employee of Tailwind speaks for the company.
25 I speak for the company.

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1 Q. Well, Tailwind has never put out a statement
2 or made it publicly known that Mr. Armstrong, when he
3 speaks about performance enhancing drugs and his use
4 of them in connection with the Postal or Discovery
5 team, is only speaking for himself, and you would need
6 to hear what the team has to say before you knew if
7 the team agreed or disagreed with those statements?
8 A. No, they haven't done that.
9 Q. Now, when this article came out in January of
10 1998 about Tony --
11 A. Rominger.
12 Q. -- Rominger -- my apologies to Tony --
13 Dr. Ferrari was not under investigation by the Italian
14 authorities, correct?
15 A. I don't think so.
16 Q. That wasn't until 2000, 2001 time period that
17 it became publicly known that Dr. Ferrari was under
18 investigation, correct?
19 A. That's correct.
20 Q. And that's why you see in this article here,
21 in the original, there's a mention of Dr. Ferrari and
22 there's actually a picture of him, right, with a stop
23 watch and stuff?
24 A. Yes.
25 Q. And there's a mention of him doing some

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1 testing, this is in 1998. But after the investigation
2 and the conviction, the articles about Dr. Ferrari
3 reveal a far different side of him, correct?
4 A. I don't know what you mean by that. You're
5 going to show me that funny picture of a bicycle
6 wheel, I'll bet.
7 Q. Well, turn to Exhibit 40. We have seen what
8 the press said about Dr. Ferrari in January of 1998,
9 you are familiar with the bicycling article that they
10 wrote about Dr. Ferrari in 2005 -- January of 2005,
11 correct?
12 A. Oh, yes.
13 Q. Okay. And this is Respondents' Exhibit 40.
14 A. How would you like it if somebody drew a
15 picture of you like that?
16 Q. Well, I don't know. I don't know.
17 MR. BREEN: He might --
18 MR. TILLOTSON: The answer is I don't
19 know.
20 THE WITNESS: It's not very flattering.
21 Q. (BY MR. TILLOTSON) It's not very flattering.
22 And the press that's been about
23 Dr. Ferrari since 2001 particularly after his
24 conviction in '04 has not been flattering or kind --
25 A. Well, and I disagree. When this article was

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1 written in '98 that was four years after the most
2 famous thing Ferrari had ever been known for, which is
3 EPO is no worse for you than orange juice. So he has
4 been associated with doping and a stupid statement for
5 11 years now. And so I don't know that things changed
6 based on whether there was an investigation in 2001 or
7 not, but he's always been associated with that
8 statement.
9 Q. In your review of this article and any other
10 information you did to assess your ability to say that
11 Mr. Armstrong is being painted as guilty by
12 association, did you make yourself aware of trial
13 testimony, for example, from Mr. Simeoni who said
14 that, quote, Dr. Ferrari spoke of EPO from the first
15 moment? Are you familiar with that testimony? That's
16 sworn testimony.
17 A. Yes. He's the only rider that said that -- --
18 that Ferrari had anything to do with doping and he was
19 a rider that admitted to taking EPO long before he met
20 Ferrari.
21 Q. Now, one other thing that this article
22 reveals in the 1998 one that you've shown us which
23 counsel says that Dr. Ferrari works with a string of
24 riders, including Mr. Armstrong. By January of
25 2005 -- if you'll look at page 55.

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1 A. Page 55 of this article?
2 Q. Yes, page 55. It says there, right-hand
3 column at the end, Ferrari was impressed by the test
4 results and Armstrong became a regular visitor, coming
5 every three or four weeks. Do you see that?
6 A. Where is it?
7 Q. Here. Let me -- let me point you to it.
8 MR. TILLOTSON: Mariella, the right-hand
9 column, starting here, at the time, at the time
10 Armstrong. Page 55. You've got 53.
11 MS. EVORA: Oh, sorry.
12 Q. (BY MR. TILLOTSON) Okay. This article,
13 unlike the 1998 one you showed us, wrote: Ferrari was
14 impressed by the test results and Armstrong became a
15 regular visitor, coming every three or four weeks,
16 Ferrari says. Do you see that?
17 A. Uh-huh.
18 Q. The Doctor, Armstrong and Carmichael also
19 went to San Diego that year for a personalized
20 training camp of the sort that later became a
21 centerpiece of Armstrong's training program.
22 Armstrong started the season in 1996 with increased
23 strength. Do you see that?
24 A. I do.
25 Q. So at least according to this article which

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1 quotes Dr. Ferrari, Mr. Armstrong was a regular
2 visitor with Dr. Ferrari through that training camp in
3 San Diego in the late '95 early 1996 time period,
4 correct?
5 A. Well, I think that's when they met,
6 but maybe -- '95. That's when they met.
7 Q. And it was this information that David Walsh
8 sought to write about in 2001, the many contacts,
9 meetings, that Dr. Ferrari and Mr. Armstrong had had,
10 not the mere fact that Armstrong used Ferrari,
11 correct?
12 A. Well, but -- no, let's be clear. What -- it
13 was reported in '98 that Ferrari trained him. What
14 Mr. Walsh did was scandalize that by saying, well,
15 it's once a month and therefore Lance is a big fat
16 liar and Ferrari is giving him EPO. That's not what
17 happened. I mean, there was never -- no one was ever
18 interested in this relationship until David Walsh.
19 And David Walsh has used every card he can put
20 together to make his little house to turn it into
21 something that it's not.
22 Q. Last, Mr. Stapleton, do you go and
23 participate in these training camps that Dr. Ferrari
24 and Mr. Armstrong went on, like in Spain or in the
25 Canary Islands or any of these another places? Do you

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1 actually go with them?
2 A. Typically not.
3 MR. TILLOTSON: No further questions.
4 Thank for your time, sir.
5 ARBITRATOR FAULKNER: Do you have any
6 other questions Mr. Herman?
7 MR. HERMAN: No questions.
8 ARBITRATOR CHERNICK: No questions.
9 ARBITRATOR FAULKNER: Thank you very
10 much, sir, you may step down.
11 We are going to take about a 15-minute
12 break.
13 (Recess 2:30 p.m. to 2:57 p.m.)
14 ARBITRATOR FAULKNER: Go ahead.
15 MR. HERMAN: We have agreed to submit the
16 issue of attorneys fees on affidavits by the
17 respective sides and so we will do that at a later
18 date. And I think that Mr. Tillotson is agreeable
19 with that, but I'm not certain.
20 MR. TILLOTSON: That's fine.
21 ARBITRATOR CHERNICK: By a later date you
22 mean after the hearing concludes?
23 MR. HERMAN: Well, either that or -- at
24 the conclusion of the hearing.
25 ARBITRATOR CHERNICK: Doesn't it --

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1 doesn't it make sense for us to make a determination
2 as to liability and the entitlement to fees before so
3 you don't have to both be submitting fees.
4 MR. TILLOTSON: I think the affidavit is
5 pretty simple. It can either be done in connection
6 with the attorneys fees or a separate thing. It won't
7 be complicated. And they've previously made demand on
8 us for a dollar amount of fees so I have an idea as to
9 what they are. I don't anticipate any problem. But
10 either way, the panel can -- can also make
11 determination and then request evidence regarding
12 fees. But Mr. Herman and I can agree to that
13 perhaps --
14 ARBITRATOR FAULKNER: Y'all can agree to
15 that later on?
16 MR. TILLOTSON: We'll work on that and
17 reduce it --
18 MR. HERMAN: We will reduce it to --
19 we'll reduce it to writing for the chairman so you'll
20 have it --
21 ARBITRATOR FAULKNER: Okay, that's fine.
22 MR. HERMAN: Also, before rest,
23 Mr. Tillotson had given us some page and line
24 designations which -- today for depositions and I have
25 not had an opportunity to review those. They may

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1 have -- they may have some impact on the page and line
2 designations which I had earlier provided to
3 Mr. Tillotson so that I may be able to cut things down
4 some. So we want to keep the record open for
5 submitting deposition testimony.
6 And, Mr. Chernick, I know on Friday you
7 indicated that you would prefer to have that in
8 writing, but what's the pleasure of the panel on
9 deposition testimony?
10 ARBITRATOR CHERNICK: Oh, in terms of how
11 it gets presented to us?
12 MR. HERMAN: Right.
13 ARBITRATOR CHERNICK: I was under the
14 impression you were just going to designate and
15 counter designate and give us the transcript. And we
16 don't care who designated, who counter designated as
17 long as we are just told what portion of the
18 transcript to read, rather than getting a videotape.
19 MR. HERMAN: I think we can -- I think we
20 could seamlessly -- by that I mean, you wouldn't --
21 you wouldn't know who designated, who counter
22 designated, you just get the portions of the
23 deposition in writing.
24 ARBITRATOR CHERNICK: That's fine.
25 MR. HERMAN: That would be -- that would

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1 be my preference or --

2 ARBITRATOR FAULKNER: Jeff, is that your

3 preference?

4 MR. TILLOTSON: Well, I don't care how we

5 do -- I don't care whether it's my designations or

6 his, or we just give group designations. And I'll

7 certainly treat any designation by Mr. Herman as being

8 applied in his case in chief whenever that is

9 submitted.

10 I do think for some of the witnesses it's

11 important for the panel to see the witnesses because

12 their credibility has been attacked. Frankie Andreu,

13 Greg LeMond, Stephanie McIlvain. These are witnesses

14 who -- who have essentially been said -- that what

15 they are saying is untruthful. And I think it's

16 important for the panel to see them to make

17 determinations on some disputes which are a he

18 said/she said battle.

19 Now, I will say that I've looked at the

20 designations and I've attempted to designate block

21 things just on the matters here. I haven't timed them

22 all, but it's not a huge amount of total deposition

23 time.

24 ARBITRATOR FAULKNER: What does not a

25 huge amount translate to? An hour, two hours?

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1 MR. TILLOTSON: I think total between --

2 certainly more than about two and a half hours and

3 total about three hours of time.

4 ARBITRATOR FAULKNER: Okay.

5 MR. TILLOTSON: Mr. Swart, for example,

6 who was here live didn't get to testify because of

7 timing. His total examination was about 45 minutes.

8 James Startt, the newspaper reporter, his total

9 examination was about 15 minutes, about 10 pages. The

10 two longest ones, lengthiest ones were Frankie Andreu

11 and Greg LeMond. Mr. Andreu's total designations for

12 me are approximately an hour to an hour and 15

13 minutes. Mr. LeMond's, which we have cut way down, in

14 the neighborhood of 25 to 30 minutes. So I think they

15 could be presented to the panel without unduly

16 delaying the hearing. I think it's important to the

17 panel to see it. I'm happy to provide those on CD

18 Roms and let you play them at your convenience. But

19 my -- some witnesses are live for me, some witnesses

20 are not live. So it disjoints my case a bit to

21 present Betsy Andreu live and then have Frankie

22 Andreu, whose testimony is also important, and have

23 her who knows when and --

24 ARBITRATOR CHERNICK: Well, really the

25 two exceptions that I would have to my statement and,

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1 Mr. Herman, if there is some reason to play these

2 things in continuity, I think you're entitled to do

3 that during the hearing and if there is a some genuine

4 credibility issue, and you tell us that we should look

5 at the tape, I think we should look at the tape rather

6 than read.

7 MR. TILLOTSON: Looking -- for example, I

8 also have deposition excerpts that I want to submit

9 from Mr. Gorski and Ms. Price. I don't think the

10 panel needs to resee those individuals that have

11 testified live before. They're very small excerpts,

12 they go to certain elements. I'm more than prepared

13 to present those in the written format.

14 ARBITRATOR LYON: It's their case. If

15 they want to play it, they play it; if they don't,

16 they don't. I mean, it's up to you as far as I'm

17 concerned.

18 ARBITRATOR FAULKNER: But if credibility

19 is at issue, then my attitude is that it's your case,

20 try it how you want. And so, you know, let's see the

21 deposition played whenever -- here whenever you want

22 to present them in the context of presenting your

23 case.

24 MR. HERMAN: Let me outline a little bit

25 different problem. That's why I gave Mr. Tillotson my

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1 page and lines so early was so that we could present

2 his -- you know, seamlessly, you know, incorporating

3 both his designations and mine. And so we never have

4 gotten around to do that and I don't know how long a

5 process that is, but if -- if the -- if the witness --

6 I mean, the depositions are going to be played live,

7 then that was always, I think, the intention was to

8 have a seamless, where you wouldn't have to look at my

9 cuts and then look at his cuts of the same witness,

10 you know, three or four days apart or whatever. So we

11 need to work on that, I think, if --

12 MR. TILLOTSON: Mariela can cut them so

13 everything is included and play them. We do it

14 ourselves.

15 MR. HERMAN: Yeah, right. Okay. Well,

16 that's --

17 MR. TILLOTSON: Am I in trouble over

18 there?

19 MR. HERMAN: The look of horror on her

20 face when you started to say that was priceless.

21 If you guys can do that, that's fine. I

22 mean, whatever presents your respective cases and the

23 way you want to present them is fine with us. And so

24 why don't y'all chat a little bit, figure out how you

25 want to do that in the most efficient way.

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1 ARBITRATOR CHERNICK: May I inquire?
 2 There's a -- there's a more fundamental issue, I
 3 think, and that is in the context of using up two and
 4 a half or three hours of hearing time, do you have an
 5 estimate of how much time you need to put on your case
 6 now that we are on the sixth day at 3:00?
 7 MR. TILLOTSON: Yes. If you give me the
 8 luxury to write out who our witnesses are and the
 9 order I planned, it will give everyone a sense of
 10 where we're headed. I don't think there's -- I don't
 11 think there's any problem with being done within the
 12 time frame, but our current intention is as follows.
 13 Today we have Mike Anderson here who's ready and
 14 prepared to testify. I think we can complete him
 15 easily before the end of the day. If there's any
 16 additional time left over, we would show the
 17 deposition testimony of Steve Swart.
 18 Then for Tuesday, we have Betsy Andreu
 19 coming live. And we had intended, then, after
 20 Ms. Andreu to play the deposition excerpts of Frankie
 21 Andreu, Stephanie McIlvain and James Startt. And if
 22 we didn't get to Swart, Swart. And we -- that would
 23 conclude a subject matter in the case.
 24 If we don't have an agreement or can't
 25 work out all the deposition excerpts, then we are

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1 prepared to call live John Bandy from SCA. If I can
 2 keep my theme going with respect to these witnesses,
 3 then on Wednesday we would then do John Bandy and our
 4 expert Mike Ashenden. And I've agreed to have Mike
 5 Ashenden testify on Wednesday because I think you had
 6 another lawyer coming in to do it, so I blocked him
 7 off.
 8 And then, of course, this may take the
 9 whole day or it may not, but on Thursday we committed
 10 to having David Walsh testify. And then the only
 11 person missing from this is Emma O'Reilly and that
 12 would be upon the moment we can get her to appear. If
 13 that's Thursday, unlikely, but if it's Friday we would
 14 have her on Friday. If not, it would be whenever that
 15 date is. So I think there's sufficient time within
 16 the days we have to successfully complete it.
 17 ARBITRATOR CHERNICK: Okay. So under
 18 that -- under that scenario, then, playing the
 19 depositions in --
 20 MR. TILLOTSON: Oh, I'm sorry, in here
 21 would also go Greg LeMond's videotape as well. We
 22 will just sort of slot those in, but I feel reasonably
 23 comfortable that we can finish everything by Thursday.
 24 ARBITRATOR CHERNICK: All right. In
 25 that -- in that case, then there should be no problem

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1 with doing the deposition playbacks during the hearing
 2 so that we can see everything in the order in which
 3 you would like us to see it.
 4 MR. TILLOTSON: Yes. And then I would
 5 just submit excerpts from Mark Gorski and Kelly Price.
 6 I don't think you need to see their background at all
 7 on that. There's a couple points that they make that
 8 are relevant to this case that we didn't play in the
 9 insurance hearing, but that's the kind of thing I
 10 think I could just simply submit.
 11 ARBITRATOR CHERNICK: All right. Mr.
 12 Herman, other than the testimony that's going to come
 13 in by deposition designation or counter designation,
 14 do you have any other evidence?
 15 MR. HERMAN: Well, we may have -- we most
 16 likely will have a rebuttal expert.
 17 ARBITRATOR CHERNICK: Other than rebuttal
 18 I mean, your case in chief; is that --
 19 MR. HERMAN: Oh, oh, right. No -- no
 20 other than testimony, other than the attorneys fees
 21 which we have agreed about on affidavit. We have
 22 submitted -- previously submitted affidavits attached
 23 to our -- I can't remember which pleading it was,
 24 but -- of the -- all of the drug officials which don't
 25 have any opinion testimony in them. It's all -- he

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1 was tested la da da da da, so many times. We are
 2 offering those affidavits of Travis Tygart, Christian
 3 Varin, Don Catlin and Leon Schattenberg, Zorzoli I
 4 don't know what his first name is, but Zorzoli. And
 5 then there are the affidavits of Dr. Nichols and the
 6 affidavit of Dr. Einhorn that relate to the medical
 7 reports which were provided in camera. But we will
 8 offer, we are offering those affidavits of Doctors
 9 Nichols and Einhorn as well.
 10 ARBITRATOR LYON: Where are they? I know
 11 Nichols is in the medical --
 12 MR. BREEN: We have copies of them here.
 13 MR. HERMAN: We have got copies of them
 14 here and we will mark them and offer them.
 15 ARBITRATOR CHERNICK: I have to confess
 16 that I -- I did not notice those declarations or
 17 affidavits of the drug czars, where -- could you --
 18 could you tell us --
 19 MR. BREEN: We can get extra copies for
 20 you if you want us to.
 21 ARBITRATOR CHERNICK: Just tell me
 22 where --
 23 MR. HERMAN: They were included in the
 24 motion on the scope of issues.
 25 ARBITRATOR CHERNICK: Oh, way back in

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1 summertime.
 2 MR. BREEN: Yes.
 3 ARBITRATOR CHERNICK: I would appreciate
 4 it if you --
 5 MR. BREEN: Certainly. We'll make copies
 6 for everyone.
 7 ARBITRATOR FAULKNER: All right. Are
 8 those affidavits going to be admitted without
 9 objection?
 10 MR. TILLOTSON: I'm not going to object
 11 to the affidavits from the UCI individuals.
 12 ARBITRATOR FAULKNER: Okay.
 13 MR. TILLOTSON: But I would like to
 14 reserve my objections on Dr. Einhorn and Nichols until
 15 I get copies of them and can look at them, other than
 16 in that secure room if that's possible.
 17 MR. BREEN: Sure.
 18 MR. TILLOTSON: That's why I don't know
 19 if I have objections to them, is I'm -- the UCI
 20 affidavits have been out for a while. They detail the
 21 testing information. And I don't object to those
 22 being a part of the record. But I would like to
 23 reserve on Dr. Nichols and Dr. Einhorn, also.
 24 MR. HERMAN: We will make sure that
 25 the -- that the panel and Mr. Tillotson have -- have

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1 copies of all of those affidavits. I know that we
 2 probably passed them out, at least the UCI related
 3 ones, earlier, but we will make sure everybody has a
 4 complete set.
 5 ARBITRATOR LYON: Okay. Are you going to
 6 have that by tomorrow?
 7 MR. BREEN: Yes, sir.
 8 MR. HERMAN: Yes. I know we have got the
 9 Nichols and Einhorn affidavits. Don't we have copies
 10 of those?
 11 MR. BREEN: We can put them in one
 12 complete pack for you if you would like.
 13 ARBITRATOR FAULKNER: That would be
 14 helpful.
 15 MR. HERMAN: Let's give one -- let's give
 16 Mr. Tillotson a copy of the Einhorn and Nichols
 17 affidavits now, because I know he's got copies of the
 18 others.
 19 ARBITRATOR CHERNICK: And with the
 20 exception of what you just described, then, your
 21 evidence in chief is subject only to deposition
 22 testimony that's been being designated for later play.
 23 MR. HERMAN: With one brief exception. I
 24 need to call Mr. -- recall Mr. Hamman for about -- for
 25 about two or three questions. I've told Mr. Tillotson

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1 about that.
 2 MR. TILLOTSON: I don't object to
 3 recalling any witness. I would say this, Mike
 4 Anderson is here, he's from Houston, his lawyer is
 5 here, and I would request that we -- we either
 6 guarantee we are going to get Mr. Anderson on or
 7 not --
 8 MR. HERMAN: It's -- I'm happy to take
 9 him out of order.
 10 ARBITRATOR LYON: Let's get him on now.
 11 MR. HERMAN: I'm just not resting yet.
 12 ARBITRATOR FAULKNER: Okay, that's fine.
 13 Let's take Mr. Anderson, then you can call Mr. Hamman
 14 later out of order.
 15 ARBITRATOR FAULKNER: The witness stand
 16 will be right about where you're about to sit
 17 Mr. Gillespie.
 18 MR. GILLESPIE: I don't want to sit
 19 there.
 20 ARBITRATOR FAULKNER: You don't want to
 21 sit next to your client?
 22 MR. GILLESPIE: I don't want it -- the
 23 witness chair.
 24 ARBITRATOR FAULKNER: Oh, no. We don't
 25 want you in the witness stand. If you will sit right

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1 there next to your client.
 2 MICHAEL ANDERSON,
 3 having been first duly sworn, testified as follows:
 4 ARBITRATOR FAULKNER: And let the record
 5 reflect that sitting next to Mr. Anderson is his
 6 counsel, Mr. Hal Gillespie, who at least the chairman
 7 is quite familiar with, and I know the lawyers in this
 8 case are.
 9 To my right is Mr. Richard Chernick, who
 10 is one of the panel members, and to my left is Senator
 11 Ted Lyons, who is the other arbitrator.
 12 Are you all prepared to go forward, Mr.
 13 Tillotson?
 14 MR. GILLESPIE: I've got three requests
 15 of the panel and one question, if I may.
 16 ARBITRATOR FAULKNER: Please state your
 17 requests.
 18 MR. GILLESPIE: My requests, number one,
 19 I move for a ruling from the panel that Mike
 20 Anderson's testimony is pursuant to subpoena and is
 21 not voluntary. Two, I move for a protective order
 22 from the panel that none of the testimony Mike
 23 Anderson provides in this proceeding may serve as a
 24 basis for a suit against him or his counsel for
 25 disparagement, defamation, breach of any settlement

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1 agreement or breach of contract. Three, I'm
 2 requesting a representation from the Claimants that
 3 they will not retaliate against Mike Anderson or his
 4 counsel in any way because of Mike's testimony in
 5 these proceedings.
 6 My question is whether or not anyone has
 7 disclosed any of the terms of the settlement agreement
 8 between Lance Mr. Armstrong and Mike Anderson, if any,
 9 to the panel, and if so, did the panel compel such
 10 disclosure?
 11 I can restate any of those, but I've got
 12 it written down so that I could make sure I said it
 13 right.
 14 ARBITRATOR FAULKNER: Okay. Gentlemen,
 15 referring to counsel in this case, we had discussed
 16 with you all having an appropriate agreement to deal
 17 with the subpoena issue and so I would like to get
 18 y'all to go ahead and state on the record what the
 19 subpoena agreement was relating to the validity of the
 20 subpoena so that that's clear.
 21 MR. HERMAN: We have stipulated that --
 22 or agreed that Mr. Anderson's appearance here will be
 23 pursuant to a validly issued subpoena and not
 24 voluntary.
 25 MR. TILLOTSON: So agreed by Respondents.

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1 ARBITRATOR FAULKNER: Okay. And from the
 2 panel we concur with that and accept the
 3 representations of counsel that Mr. Anderson's
 4 appearance is pursuant to a valid subpoena issued by
 5 this tribunal and that this is not a voluntary
 6 appearance on the part of Mr. Anderson.
 7 Okay, the second issue. Request for a
 8 protective order.
 9 ARBITRATOR LYON: We can --
 10 ARBITRATOR FAULKNER: I don't -- we don't
 11 have any authority to give you a protective order
 12 relating to an independent contract, to the extent
 13 that a valid subpoena compelling testimony pursuant to
 14 the laws of this state is acknowledged here. We don't
 15 have any authority over what your agreements are with
 16 regards to the Tailwind or Lance Armstrong parties and
 17 we have no way of doing that.
 18 The third issue, representations from
 19 claimants not to retaliate.
 20 MR. GILLESPIE: I'm requesting that of
 21 the Claimants.
 22 ARBITRATOR LYON: Of the claimants, not
 23 of the panel.
 24 ARBITRATOR FAULKNER: Not of the
 25 tribunal.

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1 MR. HERMAN: That's an entirely
 2 inappropriate subject to take up here. I'm not going
 3 to respond to that.
 4 ARBITRATOR FAULKNER: Okay.
 5 MR. GILLESPIE: I take that as a no, we
 6 won't get that representation.
 7 MR. BREEN: Well --
 8 MR. HERMAN: That would be up to you
 9 Mr. Gillespie, anyway.
 10 ARBITRATOR FAULKNER: Y'all can interpret
 11 that as you wish, but this tribunal has no authority
 12 to address that issue or to do anything other than
 13 issue a valid subpoena which has now been conceded
 14 that one exists and that your client is not
 15 voluntarily testifying.
 16 Mr. Gillespie, for what it is worth, to
 17 my knowledge the panel members don't have the terms of
 18 your settlement agreement. We have seen the
 19 correspondence and commentary exchanged back and forth
 20 between you and Messrs. Herman and Breen, et cetera,
 21 but beyond that, I certainly have never seen your
 22 settlement agreement, don't know what's in it and
 23 don't know what, if any, relevance it may have since
 24 we haven't heard any testimony from your client.
 25 Anything else?

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1 MR. GILLESPIE: That's all I had. Thank
 2 you.
 3 ARBITRATOR FAULKNER: All right.
 4 MR. TILLOTSON: Mr. Chairman, before we
 5 proceed, Mr. Towns is going to be doing the
 6 questioning.
 7 ARBITRATOR FAULKNER: Okay.
 8 MR. TILLOTSON: But with respect to the
 9 motion filed by Mr. Gillespie and the response, there
 10 were some attachments that were filed in camera.
 11 ARBITRATOR FAULKNER: Right.
 12 MR. TILLOTSON: That we weren't provided
 13 access to. Can those be made part of the record or is
 14 there some reason why we cannot see those?
 15 ARBITRATOR FAULKNER: I didn't know that
 16 you didn't know that they were.
 17 MR. TILLOTSON: I don't believe I was
 18 provided the attachments, including the letter by
 19 Mr. Herman in response. I'm not interested in the
 20 settlement agreement per se, but the correspondence
 21 between the parties regarding that it seems to me like
 22 we would be entitled to it since that was --
 23 ARBITRATOR FAULKNER: Do y'all have extra
 24 copies?
 25 MR. HERMAN: I don't have -- I don't have

<p style="text-align: right;">Page 1965</p> <p>1 any problem with that if Mr. Gillespie doesn't have a 2 problem with it. Let me tell you what the situation 3 was. I considered the correspondence between 4 Mr. Gillespie and I to be related to the mediated 5 settlement agreement and covered by the same ADR 6 confidentiality provision, so -- but I don't care -- I 7 have no problem with you seeing it if Mr. Gillespie 8 doesn't. But I don't want to get in a jam with him by 9 showing you something that you're not entitled to see. 10 MR. TILLOTSON: I'll take it up with 11 Mr. Gillespie. 12 MR. HERMAN: Okay. 13 MR. GILLESPIE: On the record I'll say 14 that we have no objection to it as long as Claimants 15 have no objection to it. 16 MR. TILLOTSON: Thank you. 17 ARBITRATOR FAULKNER: I'm pulling what 18 has been furnished out of the binder that I had and I 19 don't think I have any handwritten notes in here, so 20 any emphasis, et cetera. 21 ARBITRATOR CHERNICK: Just for the record 22 identify the cover letter. 23 ARBITRATOR FAULKNER: Would you do that 24 because you now have my only copy. 25 MR. TILLOTSON: It a January 5th, 2006</p>	<p style="text-align: right;">Page 1967</p> <p>1 you come to meet Mr. Lance Armstrong? 2 A. Yes, in the year 2000 I believe it was I was 3 working in Austin at a bike shop and I met him there. 4 Q. Tell us a little bit about that initial 5 meeting and subsequently how you came to know 6 Mr. Armstrong? 7 A. Well, the shop that I worked at was the big 8 Trek dealer, Trek being his bicycle sponsor. They 9 sent bikes to the shop for us to assemble and to give 10 to him, and we developed a personal relationship based 11 on that working relationship whereas he would come to 12 the store or call me or have someone from his 13 organization call me to have the bikes worked on or to 14 pick up the bikes, that sort of thing. After a while, 15 we -- we began mountain biking together, riding 16 off-road together. 17 Q. At some point did Mr. Armstrong hire you away 18 from the shop? 19 A. Yes, about -- about two years after we met. 20 So it would have been in 2002 or so. After some -- 21 some discussion and some rumors -- it took a while for 22 me to actually be hired in 2002. 23 Q. Okay. Now, before you were hired by 24 Mr. Armstrong, in that two-year period that you knew 25 him, approximately how many times would you say you</p>
<p style="text-align: right;">Page 1966</p> <p>1 letter from Mr. Gillespie to Mr. Faulkner containing 2 the emergency motion for protective order by 3 subpoenaed witness Mike Anderson containing a variety 4 of attachments which are correspondence between the 5 parties and a proposed order. 6 ARBITRATOR FAULKNER: Okay. Any other 7 preliminary matters before we finally get to testimony 8 in this matter? 9 Hearing none, Mr. Townsend, would you 10 please proceed? 11 MR. TOWNS: Thank you. 12 DIRECT EXAMINATION 13 BY MR. TOWNS: 14 Q. Mr. Anderson, can you state your for the 15 panel, please? 16 A. My name is Michael Joseph Anderson. 17 Q. Where do you live, sir? 18 A. I live in Austin, Texas. 19 Q. Can you describe for the panel your 20 background in terms of your experience in the bicycle 21 industry? 22 A. I worked in a number of bicycle stores in 23 high school and through college while I pursued my 24 academic career. I've done it now 20 years. 25 Q. At some point in working at bicycle shops did</p>	<p style="text-align: right;">Page 1968</p> <p>1 were around Mr. Armstrong? 2 A. Oh, I can only guess. I would say maybe two 3 dozen or so. 4 Q. And you said that you mountain biked with 5 Mr. Armstrong. Was that a regular occurrence? 6 A. When he was in Austin, particularly in the 7 off season that was one of his cross-training sports, 8 and when he was around, he and I went together. I 9 knew the trails, still know the trails, I'm known 10 locally for knowing all the trails and that's how 11 it -- that's how it happened. 12 Q. Now, at the time that Mr. Armstrong offered 13 you a position, what did the duties of that position 14 entail? 15 A. It was sort of a -- it was laid out in an 16 e-mail and discussions that he and I had. It was 17 mostly taking care of his bikes and taking care of his 18 houses and gopher kind of stuff, driving the car 19 behind him while he trained, taking care of him in 20 that respect, dealing with -- with getting equipment 21 from sponsors, providing sponsors with feedback from 22 time to time on -- on those products that they sent 23 him. 24 Q. Was this a five day a week job? How often 25 did --</p>

Pages 1965 to 1968

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1 A. It was a seven day a week job.
 2 Q. Okay.
 3 A. I was virtually -- virtually on call 24 hours
 4 a day as needed.
 5 Q. Did any of the duties you performed go beyond
 6 bicycle maintenance?
 7 A. Oh, sure. You know, after -- after his
 8 divorce from Kristin Armstrong the duties mounted.
 9 There were many, many more than we actually ever
 10 agreed upon in the beginning, from writing checks and
 11 paying bills to just all sorts of things.
 12 Q. When would you say that -- how far into your
 13 employment with Mr. Armstrong was it that your duties
 14 began to increase, do you remember?
 15 A. I don't remember, but three months -- I think
 16 I took the job in November or December of '02, and he
 17 split up -- split up with her in January, I think.
 18 Maybe it was December. It wasn't very long
 19 afterwards.
 20 Q. January of '03?
 21 A. Yes, right around there.
 22 Q. Okay. Now, you mentioned you -- part of your
 23 duties were to take care of Mr. Armstrong's houses,
 24 plural?
 25 A. Uh-huh.

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1 Q. We have -- I think we assume he has a home
 2 around Austin. What other places did you take care of
 3 his houses?
 4 A. Well, at the time they -- he and Kristin had
 5 two houses in Austin proper. One that was being
 6 remodeled and one that they had been living in, so I
 7 had to care for those two, oversee them, in addition
 8 to a cabin that he kept on the edge of the city, and
 9 additionally a construction project at the ranch as he
 10 called it near Dripping Springs.
 11 Q. Did you have any background in maintaining
 12 homes and construction projects?
 13 A. Just what I gained from life experience and
 14 being a homeowner myself.
 15 Q. All right. Now, the construction project at
 16 the ranch, as you called it, in Dripping Springs, what
 17 types of duties did you perform out there?
 18 A. Initially it was building mountain bike
 19 trails out there and taking care of just little things
 20 that would come up, whether it was, you know, a fence
 21 that needed to be mended or whatever. Later I
 22 undertook the wildlife management portion of it. He
 23 has -- there at the time had an exemption through the
 24 state and that required me to do things like build
 25 habitats for the birds and control for the hogs and a

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1 load of other things. Bird census, the paperwork with
 2 the state, sort of a new thing for me, but...
 3 Q. Perhaps you anticipated my question, it was
 4 going to be did you have background and experience in
 5 managing a wildlife preserve?
 6 A. No, no, no, not at all.
 7 Q. Did the duties that you performed for
 8 Mr. Armstrong over this period of time, were they --
 9 was Mr. Armstrong around?
 10 A. No -- well, very seldom.
 11 Q. How often in that period of time that you
 12 worked for Mr. Armstrong would you say that you
 13 directly interacted with Mr. Armstrong?
 14 A. Well, he was typically gone from, say, April
 15 to August or September where I would hardly hear from
 16 him at all, mostly just through e-mails or telephone
 17 calls. But in the off season he was in and out of
 18 Austin a lot and I would see him from time to time
 19 then. As far as the number of times, it was more than
 20 I could quantify. It was a lot. For -- for weeks it
 21 would be every single day, then he would go for an
 22 appearance or some other occasion would take him away
 23 and I wouldn't see him for a few days or a week or two
 24 weeks. It was feast or famine.
 25 Q. Okay. Over the period of time that you

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1 worked for Mr. Armstrong, did you -- would you say
 2 that your relationship with him was one of
 3 employer/employee or was there a clear line of
 4 distinction there?
 5 A. No, there wasn't really a very clear line of
 6 distinction, not -- not in the typical sense. You
 7 know, I've been other people's employees for a large
 8 part of my life, and there are things you say, things
 9 you do that you wouldn't do in front of your employer,
 10 and conversely things your employer wouldn't say or do
 11 in front their employees. That wasn't the case with
 12 Lance and I. It was very -- very, very casual.
 13 Q. And that's what -- why don't you give us a
 14 flavor and the panel an idea of what your relationship
 15 was like with Mr. Armstrong on a day-to-day basis?
 16 A. Well, it was sort of like one of the boys,
 17 you know. I would -- I would get a phone call from
 18 him -- a typical day I would get a phone call from him
 19 early in the morning or typically he would call me
 20 from the toilet and tell me what we were going to be
 21 doing for the day. I would drive over to his house
 22 and help him out with whatever needed to be done to
 23 get him on the road on a bicycle and then I would
 24 follow him for however many hours it was he trained.
 25 And we would return to the house and I would have a

Pages 1969 to 1972

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1 list of other things to do, errands to run, that sort
 2 of thing.
 3 Q. Now, are you married, sir?
 4 A. Yes.
 5 Q. Do you have any children?
 6 A. Yes.
 7 Q. How many children do you have?
 8 A. I have one.
 9 Q. Were you married at the time that you worked
 10 for Mr. Armstrong?
 11 A. Yes.
 12 Q. Did you have children at that time?
 13 A. My wife was pregnant at the time.
 14 Q. And did the -- did your duties with
 15 Mr. Armstrong, were they -- were they ones that
 16 included your family at times?
 17 A. When -- in what respect, what --
 18 Q. Well, were there any travel obligations that
 19 you --
 20 A. Yes.
 21 Q. What were some of those?
 22 A. I think the first time we traveled with him
 23 we went to California. Perhaps -- well, no that
 24 wasn't the first time. We went to Spain twice for
 25 sure. We went to California at least once together as

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1 a family.
 2 Q. And when you traveled, was it part of your
 3 job, you were there not as a tourist but to work?
 4 A. To work.
 5 Q. Did your -- did your wife perform any duties
 6 for Mr. Armstrong?
 7 A. Yes, she cooked and shopped from time to
 8 time. She has another line of work that she does, but
 9 she was always willing to help him out when we were
 10 traveling.
 11 Q. Now, your -- did you travel with
 12 Mr. Armstrong at all during his -- during training
 13 camps outside of the country?
 14 A. No.
 15 Q. Did you travel with Mr. Armstrong to the
 16 training camps inside of the country?
 17 A. No. No.
 18 Q. Okay. Now, I want to ask you have you ever
 19 met Michele -- I'm not sure it's Michele or Michelle
 20 Ferrari?
 21 A. Yes.
 22 Q. When did you meet Michele Ferrari?
 23 A. I believe I met Michele Ferrari in December
 24 of 2002, shortly after I took the job. I believe the
 25 team was there for sort of a meet and greet team camp

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1 where they come to Austin, prior to the Solvang camp.
 2 Yeah, that's when I met him.
 3 Q. How was it that you were introduced to him?
 4 A. Lance asked me to pick up someone from the
 5 airport and referred to him as Dr. Evil and I wasn't
 6 really sure -- what do you mean Dr. Evil, I asked him
 7 about it, and he sort of made an offhand remark that I
 8 now don't recall but it was basically somebody has
 9 implied that this guy is up to no good.
 10 He asked that because of that moniker
 11 that I take him out to this cabin discretely and keep
 12 him out there so that the press would not see him.
 13 Q. And did you follow that direction?
 14 A. Yes.
 15 Q. Did you talk to Mr. Ferrari in -- or
 16 Dr. Ferrari in transporting him to the cabin?
 17 A. Oh, yeah, very friendly guy.
 18 Q. What -- was there anything unusual about the
 19 luggage or anything that Mr. Ferrari brought with him?
 20 A. No.
 21 Q. Was there -- well, you had followed cycling,
 22 been around cycling for quite a while?
 23 A. Well, not professional road cycling, not in a
 24 very in depth way.
 25 Q. Had you heard of Dr. Ferrari at that time?

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1 A. Yes.
 2 Q. Did you have some idea of what the -- I
 3 guess, allegations that followed Dr. Ferrari around at
 4 that time?
 5 A. I may or may not have. I did discount them
 6 later on for sure. I just wanted to take Lance's word
 7 for it. If he said this guy is good, this guy is
 8 good.
 9 Q. But it was your impression that Mr. Armstrong
 10 did not want Dr. Ferrari or the media or publicity
 11 around Dr. Ferrari's arrival?
 12 A. Oh, he was very clear, yes. He said we don't
 13 want him staying at the hotel.
 14 Q. What hotel was the team staying at?
 15 A. The Four Seasons in Austin.
 16 Q. Okay. Now, I want to turn to 2004. It's my
 17 understanding that early in 2004, you and your family
 18 traveled to Gerona; is that right?
 19 A. That's correct.
 20 Q. What was to the purpose of traveling to
 21 Gerona?
 22 A. We went to help him out, essentially.
 23 Previously he had Kristin to help run the household
 24 there. We had gone in 2003, because of their marital
 25 difficulties, and when it became clear to him that

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1 they weren't going to patch things up, they went
 2 through divorce proceedings. I said, if you need help
 3 in Gerona, we can do it this year. We were sent a
 4 week or so before his arrival to clean the place up,
 5 because it had been left alone since the tour in the
 6 summer time, and I was asked to get rid of any
 7 remnants of his ex-wife, so that his new girlfriend
 8 wouldn't be made uncomfortable. Those are the reasons
 9 he gave me, go and clean the house.
 10 Q. And did you do that?
 11 A. Yes.
 12 Q. Now, at that time are you assuming the
 13 greater responsibilities of -- with your employment
 14 position with Mr. Armstrong that you described
 15 earlier?
 16 A. Oh, yes, it was well past that point -- well
 17 past that point.
 18 Q. Do you, for instance, have any discretionary
 19 spending ability with Mr. Armstrong's money?
 20 A. Yes.
 21 Q. Had there been any issues between you and
 22 Mr. Armstrong at that time regarding the performance
 23 of your duties?
 24 A. By the time of my arrival?
 25 Q. Yes.

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1 A. No.
 2 Q. Now, was there anything that you recall
 3 unusual about performing your duties when you arrived
 4 in Gerona in 2004?
 5 A. Anything unusual? Well, certainly. In the
 6 course of cleaning out the bathroom in the master
 7 bedroom I found something which bothered me a great
 8 deal and I immediately identified it as a steroid. I
 9 knew what it was when I saw the box. That was sort of
 10 the beginning of the long downhill with my job.
 11 Q. Okay. Well, I want to -- I want to focus on
 12 that just for a moment. It's your testimony that in
 13 Mr. Armstrong's bathroom you found a substance,
 14 correct?
 15 A. Uh-huh.
 16 Q. And that substance you identified as I
 17 believe you called it a steroid?
 18 A. Uh-huh.
 19 Q. What -- or how did you come to know that that
 20 was a steroid?
 21 A. Well, the first thing when I saw it, when I
 22 picked it up, I had a real good inkling about it. My
 23 mother was a registered nurse, I've been around
 24 medicines all my life, I grew up with -- Percodan was
 25 in my house, pharmaceutical manuals are -- I have a

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1 basic understanding of Latin, I can -- you know,
 2 pharmaceutical names are all in Latin, the things that
 3 begin with A-N-D besides Anderson are generally
 4 steroids.
 5 I didn't want to believe it. I thought
 6 there -- there must have been some other reason. In
 7 fact, I thought for a long time after that there must
 8 be some other reason behind it, some other explanation
 9 that is. But to solidify things I went to the
 10 computer that was in the kitchen within, you know,
 11 moments of finding this stuff and did a Google search
 12 or a Yahoo search and went on to the USADA or WADA web
 13 site, the governing bodies, whatever information I
 14 could gather on this to sort of clarify my thoughts on
 15 it.
 16 Q. What did you -- what did you discover from
 17 your --
 18 A. That it was on the list of -- I'm sorry, that
 19 it was on the list of banned substances, it was an
 20 androgen, a steroid.
 21 Q. Prior to that time --
 22 MR. HERMAN: Excuse me, Cody, let me
 23 just -- for the record let me just preserve our
 24 objection to any of this as having anything to do with
 25 SCA's liability in this case. It's irrelevant, but...

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1 ARBITRATOR FAULKNER: Your objection is
 2 noted; it's overruled as noted earlier.
 3 Please proceed with the questioning.
 4 Q. (BY MR. TOWNS) Prior to that time had you
 5 ever had any concerns yourself with Mr. Armstrong
 6 being associated with anything on a banned substance
 7 list?
 8 A. No, not really.
 9 Q. Once you had satisfied yourself that this was
 10 something on the banned substance list, did you
 11 confront Mr. Armstrong?
 12 A. No.
 13 Q. Why not?
 14 A. Well, initially I didn't want to believe it.
 15 I call it a state of denial that went on for months.
 16 I wanted to give him the benefit of the doubt. I
 17 thought -- a lot of things went through my head. I
 18 thought, well, maybe it's something left over from
 19 cancer. And, of course, you start doing the math it's
 20 not left over. He didn't own this apartment when he
 21 had cancer. I went through all sorts of scenarios in
 22 my head.
 23 But then things happened after that that
 24 solidified my belief that -- that he was, indeed, up
 25 to no good. Events occurred that just made it

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1 perfectly clear that things were not on the up and
 2 up.
 3 Q. What events are you referring to?
 4 A. Shortly after Johan Museeuw, a Belgian
 5 cyclist, one of my favorite cyclists was busted for
 6 drug use I had a conversation with Lance while he was
 7 on his bike. I'm in the car driving, and I just sort
 8 of asked him, you know, what do you think about Johan
 9 Museeuw? And he looked at me squarely and said,
 10 everyone does it.
 11 And I was appalled. I didn't want to
 12 hear that. I didn't believe it. I honestly had
 13 thought that cycling was sort of the -- the last clean
 14 sport. You know, that there was more to it than
 15 Festina, it was really more wholesome than the people
 16 were making it out to be. You know, I had been fed
 17 offhand remarks, sort of inferring that -- that the
 18 stories about Michele Ferrari were tabloid journalism,
 19 and that sort of thing. That it's not really what you
 20 think it is.
 21 But when he says everybody does it,
 22 doesn't exclude himself, and pauses and looks at me
 23 squarely in the eye, waiting for a response to which I
 24 offered none, I figured that he was gauging me. He
 25 was curious as to what I thought about the whole

Page 1982

1 thing. After that --
 2 Q. Well, let me -- if you don't mind, let me
 3 stop you right there before you get too far away from
 4 the Gerona apartment. What happened to the -- what
 5 did you do with the substance you found in the
 6 apartment in Gerona?
 7 A. I put it back.
 8 Q. And did you ever go back to see if it was --
 9 if it was still where you left it?
 10 A. After they left for the Canary Islands, I
 11 went back and it was not there anymore.
 12 Q. And when you say they, who are you referring
 13 to?
 14 A. Lance Armstrong and Sheryl Crow.
 15 Q. Okay. Now, at any time during your
 16 employment with Mr. Armstrong, did you ever bring up
 17 to him the substances that you found in the Gerona
 18 apartment?
 19 A. No.
 20 Q. Did he ever bring the subject up to you?
 21 A. No.
 22 Q. Now, in your work around Mr. Armstrong, did
 23 you ever -- were you ever present when an off season
 24 drug test was performed or the inspector showed up to
 25 perform one?

Page 1983

1 A. I wasn't -- I was never there when an actual
 2 test was given. I was made aware of a missed test and
 3 witnessed the -- the people who were there to
 4 administer the test as they were leaving.
 5 Q. Okay. Can you tell the panel what you saw
 6 and were told in relation to that?
 7 A. Yes. I was on my way to the ranch to meet
 8 Lance who at the time was staying there. It was a
 9 normal day for training and normal work day for me.
 10 And on the way I received a phone call from Derek
 11 Russey who said, where is Lance? I said, what do you
 12 mean where is Lance? He said, well he's not here.
 13 Derek was at the house. And I said, well he should be
 14 there. I'm supposed to meet him there. And he says,
 15 well he's not, and two of the drug control people were
 16 just here and I told them they were trespassing and
 17 made them leave. And he didn't -- he said that they
 18 were waiting outside the property -- outside the gate
 19 for Lance to come home. That -- he asked me if I have
 20 any way of getting ahold of him. I said, I really
 21 don't know where he is. I don't know anything about
 22 this.
 23 So I continued on my way and before I'm
 24 at the ranch -- got to the gate of the ranch, I met --
 25 I passed two people in a white SUV as described by

Page 1984

1 Derek Russey on their way back out of town. And Derek
 2 and I had a brief -- I was very uncomfortable about
 3 the whole thing because -- and he and I both during
 4 the course of this discussion had said that wasn't
 5 that an automatic positive if you missed the test.
 6 And that, for the most -- for the most part, was the
 7 last I ever heard of it. Just nothing else was ever
 8 said.
 9 Q. Do you recall after that event how long it
 10 was before you next saw Mr. Armstrong?
 11 A. I was -- it was the next day or maybe the day
 12 after. Very -- my recollection of it is that -- the
 13 explanation that was given to me was that he went to
 14 California to see Sheryl and that -- he was back very
 15 shortly afterwards.
 16 Q. Okay. Now, earlier you were telling us a
 17 little bit about subsequent events at -- in terms of
 18 Mr. Armstrong being associated with substances that
 19 were banned. And I interrupted you to finish up what
 20 we were talking about at Gerona. I would like to give
 21 you an opportunity to tell us what else there was.
 22 A. Those -- those three events that I've already
 23 talked about, those are the ones. I -- I found the
 24 stuff in the apartment in Gerona. And in the late
 25 winter, came home, told no one, dealt with the remarks

Page 1985

1 about everybody does it, dealt with the -- the missed
 2 drug test, and put those three things together and
 3 drew my conclusion that there was -- there was indeed
 4 something going on.
 5 On top of that, our relationship changed
 6 dramatically, turned around 180 degrees the day that
 7 they arrived in Gerona. And my belief is that he
 8 found -- he discovered that I had seen that stuff and
 9 it made him very uncomfortable, very angry, and our --
 10 it was just not the same after that.
 11 Q. Did you become concerned -- are you even
 12 concerned today or fearful maybe even of the potential
 13 for Mr. Armstrong to affect your career in the cycling
 14 business?
 15 A. Yeah -- yeah, I'm very fearful. He's already
 16 done enough damage as it is, an enormous amount.
 17 He's -- he's a rich and powerful guy with a lot of
 18 friends and -- and a -- a fairly good media machine
 19 and they've done a heck of a job of making me look
 20 like an idiot and making him look like little boy
 21 blue. Yes, am I threatened by it. Yes, I'm very
 22 threatened by it. They've threatened me with a
 23 lawsuit for answering a subpoena, something that I
 24 find is my civic duty as much as voting. So, yeah, to
 25 answer your question.

Page 1986

1 Q. Well, based on what you -- what you
 2 personally saw and witnessed as an employee of
 3 Mr. Armstrong, is there -- did you reach a conclusion
 4 about whether Mr. Armstrong has been associated with
 5 banned substances?
 6 A. There's no doubt in my mind. There's no
 7 doubt whatsoever.
 8 Q. And based on the events that you've described
 9 to the panel this afternoon, is it your belief that
 10 Mr. Armstrong has acknowledged use of banned
 11 substances?
 12 A. Oh, yes. Oh, yes.
 13 MR. TOWNS: That's it. Thank you for
 14 your time.
 15 ARBITRATOR FAULKNER: Cross, please?
 16 MR. HERMAN: Yes.
 17 CROSS EXAMINATION
 18 BY MR. HERMAN:
 19 Q. Mr. Anderson, when -- well, let me just ask
 20 you about this last thing that you mentioned to
 21 Mr. Towns. When is the last item of publicity in any
 22 media outlet that had anything to do with you that you
 23 say was engineered by Mr. Armstrong?
 24 A. I don't think I ever said anything was
 25 engineered by Mr. Armstrong. There have been remarks

Page 1987

1 made by Mr. Armstrong to people in the Austin
 2 community about me. There was a newspaper article in
 3 the Austin American Statesman describing me as the
 4 landscaper, which --
 5 ARBITRATOR CHERNICK: I'm sorry?
 6 THE WITNESS: The landscaper.
 7 ARBITRATOR FAULKNER: L-A-N-D?
 8 A. Yes, yes -- the gardener.
 9 Q. The gardener, okay.
 10 A. They sort of implied that I was the angry
 11 gardener who was out to get the celebrity's money, and
 12 I took that as a -- a pretty serious hit to my pride
 13 because I'm an educated man and an upstanding citizen.
 14 I've never been convicted of crime, never been held on
 15 any charges whatsoever and for someone to diminish
 16 what I did for Mr. Armstrong as a simple landscaping
 17 service, something I never did for him, I think that
 18 that's derogatory and defamatory.
 19 Q. Okay. Well, I understood you to tell
 20 Mr. Towns that Mr. Armstrong had a big media machine.
 21 Do I understand that the -- the publicity about which
 22 you are complaining had to do with your dis -- the
 23 description of you as a landscaper in the Austin
 24 paper?
 25 A. Well, that's part of it, but being told by

Page 1988

1 other people that I've been called a thief by Lance
 2 Armstrong, Mr. Stapleton -- Mr. Stapleton's approach
 3 to the media also I think was rather unscrupulous and
 4 has dealt me a blow in terms of the public eye, public
 5 view of me.
 6 Q. We will get back to the media in a moment.
 7 It's true, is it not, before you went to work for
 8 Mr. Armstrong the most you -- you were making \$28,000
 9 a year, something like that?
 10 A. That was not the most I ever made, but at the
 11 time that was what I was making.
 12 Q. And Mr. Armstrong hired you, paid you \$36,000
 13 a year?
 14 A. Initially that's correct.
 15 Q. And gave you an unsolicited \$5,000 bonus at
 16 the end of 2003?
 17 A. Is that a question?
 18 Q. Did you get a bonus at the end of 2003?
 19 A. I wouldn't -- I wouldn't constitute it as a
 20 bonus.
 21 Q. Well, you got \$5,000?
 22 A. Yes, unsolicited \$5,000, yes. Was it a
 23 bonus? No, because he later asked me to use it to
 24 cover travel expenses. So it clearly wasn't a bonus,
 25 it was an advance on travel expenses.

Pages 1985 to 1988

Page 1989

1 Q. Did you end up paying travel expenses?
2 A. No, I didn't. That was the source of an
3 argument that we had.
4 Q. You had the use of an automobile?
5 A. That's correct.
6 Q. You didn't have use of an automobile at your
7 bicycle mechanic job?
8 A. I had my own automobile. I didn't need
9 another one.
10 Q. All right. You weren't provided one by your
11 employer, though?
12 A. No.
13 Q. And despite this 24/7 as you've described it
14 you had time to moonlight for Susan Dell while you
15 were employed with Mr. Armstrong?
16 A. I wouldn't constitute eight hours in the
17 course of 365 days as moonlighting.
18 Q. You did perform work for Ms. Susan Dell for
19 compensation while you were employed by Mr. Armstrong?
20 A. That is true, at his request.
21 Q. Now, it's true, is it not, that you've
22 testified under oath that you have never seen
23 Mr. Armstrong do any -- perform any illegal act, other
24 than perhaps speeding, fair?
25 A. That's correct.

Page 1990

1 Q. You've testified under oath that you've never
2 been requested to perform any illegal act or assist in
3 any illegal act?
4 A. That's correct.
5 Q. You have testified under oath that you have
6 never seen Mr. Armstrong ingest any prohibited
7 substance?
8 A. To my knowledge, no. I've seen him ingest
9 substances, but without knowing what they are, I can't
10 answer that question.
11 Q. You're not asserting that you've seen him
12 ingest a prohibited substance?
13 A. I'm -- what I'm asserting is that I don't
14 what it was that he was putting into his mouth.
15 Q. Now, you were fired from your job on November
16 the 16th of 2004?
17 A. That's correct.
18 Q. And Mr. Knaggs from Mr. Stapleton's office
19 delivered the message that you were being relieved of
20 your duties?
21 A. That's correct.
22 Q. Mr. Knaggs told you at that time there were
23 questions about the accounting of certain funds and so
24 forth that you had handled on behalf of -- excuse me,
25 on behalf of Mr. Armstrong?

Page 1991

1 A. No, he did not.
2 Q. Between November 16th and December 1st, did
3 you have any further conversations with Mr. Knaggs?
4 A. Yes.
5 Q. On December 1st, did you agree to a severance
6 package with Mr. Armstrong?
7 A. On December 1st? When was that -- which
8 severance package was that?
9 Q. Did you submit to Mr. Armstrong a proposal
10 for a severance in a severance package as a result of
11 you leaving your job?
12 A. No -- it didn't happen exactly like that, no.
13 The severance package was offered to me by Mr. Knaggs
14 at our first meeting.
15 Q. Okay. And what was that severance package?
16 A. It was three months pay.
17 Q. Well, did you send -- did your wife, on your
18 behalf, send Mr. Armstrong an e-mail on December 1st
19 indicating the terms of the proposed severance?
20 A. Yes, that's correct, under duress.
21 MR. HERMAN: Could we mark these please?
22 Let's mark these two.
23 ARBITRATOR FAULKNER: What -- is this
24 130?
25 MR. HERMAN: 130 and 131.

Page 1992

1 ARBITRATOR FAULKNER: What is Plaintiffs'
2 13?
3 MR. HERMAN: 130 is an e-mail string, one
4 from Allison Anderson to Lance Armstrong, entitled
5 wrapping it up on December 1, and then Mr. Armstrong's
6 reply -- I can't tell what date that is, but it's
7 December something 2004.
8 The second one is a correspondence from
9 Mr. Gillespie with a proposed settlement agreement and
10 mutual release of claims, dated December 9, 2004.
11 ARBITRATOR FAULKNER: Has Mr. Tillotson
12 seen these?
13 MR. TILLOTSON: We have not.
14 ARBITRATOR FAULKNER: Has one been
15 provided to the witness as well?
16 MR. HERMAN: Yes, sir.
17 ARBITRATOR FAULKNER: Okay. Thank you.
18 Q. (BY MR. HERMAN) If you would, let me just
19 direct your attention to the second page of
20 Exhibit 130. Do you see those four terms there at
21 the top? The two months of pay and health insurance,
22 pay the cell phone bill, non-disclosure agreement be
23 reciprocal and a statement that -- the termination
24 employment letter stating that you were not terminated
25 due to any wrongdoing. This e-mail went out with your

Page 1993

1 knowledge, did it not?
 2 A. Yes, that's correct.
 3 Q. And you asked your wife to forward this on
 4 for you?
 5 A. Yes.
 6 Q. Okay. Now, look at Exhibit 131.
 7 MR. GILLESPIE: Ours don't have those
 8 numbers on them.
 9 MR. HERMAN: They've just been marked.
 10 MR. BREEN: They were just marked.
 11 ARBITRATOR CHERNICK: Mr. Gillespie, why
 12 don't you just write 130 on the bottom of the e-mail
 13 string and 131 on the bottom of your letter and then
 14 Mr. Anderson will know what it is we are referring to.
 15 MR. GILLESPIE: Thank you.
 16 Q. (BY MR. HERMAN) Before we get to 131, I'm
 17 sorry, if you would go back to the first page of 130.
 18 The response from Mr. Armstrong was basically to
 19 address to Allison, I'm sorry I've been taking so long
 20 to get back to you. It's been nuts here with camp and
 21 the kids this week. I agree that it's best for us to
 22 all move onward and upward. And then he responds no
 23 problem, no problem. Basically with respect to the
 24 four issues, but requests that all of his possessions
 25 in your possession be returned, correct?

Page 1994

1 A. That's correct.
 2 Q. Now, go to 131, which is a letter from
 3 Mr. Gillespie dated December 9 to Mr. Stapleton. Now,
 4 at this point you're making not \$3,000 a month, but
 5 \$3,500 a month with Mr. Armstrong, correct?
 6 A. As of --
 7 Q. At the end of your employment?
 8 A. I believe that's -- I believe that's true.
 9 Q. Okay. Now, in this proposal that is
 10 characterized by Mr. Gillespie as fair and balanced,
 11 you asked -- you asked Mr. Armstrong for the sum of
 12 \$500,000, correct?
 13 A. Correct.
 14 Q. \$100,000 to Mr. Gillespie, \$100,000 to
 15 Mr. Davis and \$300,000 to you?
 16 A. Yes.
 17 Q. And you state in your -- or Mr. Gillespie
 18 states in item 2 on page 2 that the \$500,000 is
 19 designed to provide adequate funds to address
 20 Mr. Anderson's breach of contract claims, including
 21 attorney's fees, correct?
 22 A. Correct.
 23 Q. And, of course, you ultimately filed
 24 claims -- you filed a lawsuit asking or asserting that
 25 you had a contract and Mr. Armstrong breached it?

Page 1995

1 A. That's correct.
 2 Q. And the court said, no, you did not have a
 3 contract?
 4 A. I think the court is wrong.
 5 Q. All right, but the court did say that?
 6 A. The court has been wrong throughout history
 7 and the court has made mistakes. We did not get to
 8 the point of filing an appeal because we settled.
 9 Q. Is it true or untrue that the District Court
 10 in Travis County said you had no contract with
 11 Mr. Armstrong?
 12 A. That's true.
 13 Q. Now, in addition to the \$500,000 that you
 14 demand from Mr. Armstrong, you also request yellow
 15 jerseys autographed by Mr. Armstrong, correct?
 16 A. That's in this proposed settlement here?
 17 MR. GILLESPIE: Do you want to give him
 18 time to read the whole thing, or do you want to tell
 19 him where you're looking?
 20 MR. HERMAN: If he doesn't know what was
 21 in it, that he's asked -- I'm pleased to give him
 22 plenty of time to read it.
 23 A. That's correct.
 24 Q. (BY MR. HERMAN) You demand personal
 25 appearances?

Page 1996

1 A. That's correct.
 2 Q. Of Mr. Armstrong at a bike shop if you decide
 3 to open one?
 4 A. That's correct.
 5 Q. You demand posters signed by Mr. Armstrong,
 6 to my good friend Mike Anderson, thanks for all the
 7 support, et cetera, et cetera?
 8 A. That's correct.
 9 Q. Now, if you would look at the settlement
 10 agreement and mutual release of claims, in the first
 11 paragraph.
 12 MR. HERMAN: The settlement agreement.
 13 No, no, in the -- in the -- in the settlement
 14 agreement, the mutual release of claims -- keep going.
 15 There it is, at the very first paragraph.
 16 MR. TILLOTSON: This is the attachment?
 17 MR. HERMAN: Yes.
 18 Q. (BY MR. HERMAN) How do you -- how does
 19 Mr. Gillespie refer to Luke David, L.L.C. and Lance
 20 Armstrong?
 21 A. I'm sorry?
 22 Q. How are they defined there? They're defined
 23 as defendants, aren't they?
 24 A. Correct.
 25 Q. And throughout this agreement they're

Pages 1993 to 1996

Page 1997

1 referred to as defendants, correct?
2 A. Sure, yes.
3 Q. Okay. Now, if you go to the -- page 2 of the
4 settlement agreement, you agree not to make any
5 disparaging remarks, comments or statements, et cetera
6 if Mr. Armstrong will pay you \$500,000.
7 A. I'm sorry, I'm not reading that.
8 Q. Look at paragraph 3 on page 2 of the
9 agreement.
10 A. Okay. I don't see \$500,000 in there. What I
11 see says \$100,000.
12 Q. Well, look at paragraph 2.
13 A. I'm sorry, I thought you said look at
14 paragraph 3.
15 Q. Well, I did, because that's where you agreed
16 not to make any disparaging remarks, on the condition
17 that the defendants pay you \$500,000 as reflected in
18 paragraph 2.
19 A. I'm sorry. If you're trying to confuse me,
20 you're doing a great job, because you told me to look
21 at paragraph 3 and now your referring to paragraph 2.
22 So what is your question?
23 Q. So did Mr. Gillespie on your behalf, suggest
24 a non-disparagement clause in this settlement
25 agreement? Do you see that in paragraph 3?

Page 1998

1 A. Yes.
2 Q. And a confidentiality agreement, correct?
3 A. That's correct.
4 Q. Now, by December 9, 2004, you know everything
5 that you've already testified to Mr. Towns, you know
6 everything about Mr. Armstrong that you testified to
7 Mr. Towns about, do you not?
8 A. That's correct.
9 Q. And your conscience is bothering you,
10 correct?
11 A. My conscience is bothering me?
12 Q. Yes.
13 A. No, not at all.
14 Q. I thought you were very uncomfortable with
15 this situation.
16 A. With which situation?
17 Q. With Mr. Armstrong.
18 A. Not anymore I'm not.
19 Q. As of December 2004?
20 A. As of December -- oh, as of 2004, yes, of
21 course. As of today, no, I'm not.
22 Q. Right. Okay. But for \$500,000, you were
23 prepared to take the 500, open yourself a bicycle shop
24 and take the endorsements, take the yellow jerseys,
25 take the posters and so forth, even though you now say

Page 1999

1 that Mr. Armstrong was a cheat?
2 A. I don't know.
3 Q. Is that right?
4 A. No, it is not right.
5 Q. So Mr. Gillespie was not authorized to offer
6 for you to be quiet and take the money?
7 A. Mr. Gillespie was authorized as my attorney
8 to do what it is that I wish. I knew at the time of
9 this lawsuit that it was going to be very
10 uncomfortable for me as just a normal Joe up against
11 Lance Armstrong, a national sports figure; that it
12 would be much better for me to try to get him to live
13 up to his end of an agreement that he and I had and
14 for me to not place myself in front of a room full of
15 lawyers; that I would much rather move on with my life
16 as a quiet, unstressful life as a bicycle mechanic
17 than to deal with this tribunal, for instance, or
18 anything else.
19 Certainly in -- -- in my position most
20 people would do the same thing. It's not easy -- it
21 has not been easy for me or my family to go with -- go
22 through with what we had to do this last year.
23 Q. So you think most people who are making
24 \$36,000 a year would demand \$500,000 as a severance
25 payment when they quit?

Page 2000

1 A. That was not a severance payment that I was
2 asking for. That was -- that was money that he
3 offered to me to open a bike shop. That was the
4 original agreement that he and I made as an employee
5 of Lance Armstrong. That had nothing to do with hush
6 money or anything like that -- of the sort. There are
7 numerous e-mails to support my claim.
8 Q. Well, all of those were provided to the
9 district court in Austin?
10 A. Well, I know that that's not exactly true.
11 There were numerous e-mails that didn't ever show up
12 in production, because Mr. Armstrong's computer just
13 happened to be donated to charity and it was too late
14 for us to retrieve the necessary information off that
15 hard drive.
16 Q. Well, you swore that Mr. Armstrong defrauded
17 you, too, didn't you?
18 A. Yes.
19 Q. And the court said, no, he did not?
20 A. Yeah, the courts are wrong.
21 Q. You swore that Mr. Armstrong fraudulently
22 induced you into this relationship as the bike
23 mechanic, right?
24 A. That's right.
25 Q. And the court said, no, he did not?

Page 2001

1 A. Indeed. I say again, the court was wrong.
 2 Q. And you asserted that Mr. Armstrong had
 3 promised you a bicycle shop and the court found that
 4 he had not, isn't that true?
 5 A. Again, the court is wrong.
 6 MR. GILLESPIE: Objection, the court
 7 didn't find that.
 8 ARBITRATOR FAULKNER: Wait. You're here
 9 in a very peculiar situation, Mr. Gillespie, because
 10 you're really not part of this tribunal, but are
 11 representing a party. I understand you need to
 12 represent your client. Let me find out what the
 13 Senator wants to have the panel members chat about
 14 very quickly, and then we'll come back and address
 15 y'all's situation.
 16 MR. GILLESPIE: I just have trouble with
 17 representations about what the court did when I know
 18 what the court did and what the court didn't do.
 19 ARBITRATOR FAULKNER: Somehow I suspect
 20 we don't need to call you as a witness in that regard.
 21 (Discussion off the record among the
 22 panel members).
 23 ARBITRATOR FAULKNER: Okay, gentlemen, we
 24 are going to -- Mr. Gillespie, we are going to allow
 25 you to object. We will go ahead and address that one

Page 2002

1 objection and then ask Mr. Herman if he will go ahead.
 2 And if you can lay a predicate for whatever the court
 3 did, because, quite frankly, we have heard about it
 4 multiple times. My suspicion is there's a judgment
 5 somewhere that we could all read --
 6 MR. HERMAN: There's several.
 7 ARBITRATOR FAULKNER: -- and know how to
 8 interpret.
 9 Will those judgments be offered to us in
 10 evidence?
 11 MR. HERMAN: I'm prepared to give them to
 12 you, yes.
 13 ARBITRATOR FAULKNER: Okay.
 14 Mr. Tillotson, have you seen any of these?
 15 MR. TILLOTSON: I have not seen them and
 16 I was just going to say we don't oppose making the
 17 court rulings a part of the record and then Mr. Herman
 18 can argue as to whatever they meant or what the court
 19 said.
 20 ARBITRATOR FAULKNER: And so if y'all are
 21 prepared to make -- either offer into evidence the
 22 court rulings, then we'll have those. We can decide
 23 whatever, if any, weight to give them, fellows. And
 24 then -- you know, we can then move on with other
 25 questioning, please.

Page 2003

1 MR. HERMAN: I'll move along and I'll
 2 provide copies of the many -- several summary
 3 judgments and the special exceptions.
 4 ARBITRATOR FAULKNER: Great. As someone
 5 already observed, you've got not quite 100 years of
 6 legal experience sitting up here. I think we can read
 7 those, so...
 8 ARBITRATOR CHERNICK: And that's just
 9 Faulkner.
 10 ARBITRATOR FAULKNER: Thanks. I was
 11 referring to Mr. Chernick, but -- since I'm the
 12 youngest on this panel.
 13 ARBITRATOR CHERNICK: He double counts
 14 because he's admitted to more than one jurisdiction.
 15 ARBITRATOR FAULKNER: Okay. Why don't we
 16 proceed with the questions.
 17 Q. (BY MR. HERMAN) Okay. Mr. Armstrong, as I
 18 understood your testimony to --
 19 ARBITRATOR CHERNICK: Mr. Anderson,
 20 maybe?
 21 MR. HERMAN: I plead guilty on that one.
 22 Q. (BY MR. HERMAN) Mr. Anderson, as I
 23 understand your testimony, you claim that after
 24 February of 2004, after this alleged discovery of
 25 yours, that your relationship with Mr. Armstrong

Page 2004

1 changed dramatically; is that right?
 2 A. That's correct.
 3 Q. And that February visit to Gerona -- to
 4 Spain, that was the first time that Mr. Armstrong had
 5 been there with his companion Sheryl Crow, correct?
 6 A. To my knowledge, yes.
 7 Q. Okay. And that was the same visit when at
 8 the -- pretty much the outset of the visit you told
 9 Mr. Armstrong that he didn't know what a per diem was
 10 because he had never had a real job; isn't that true?
 11 A. I did tell him that, yes.
 12 Q. And that -- at that time, correct.
 13 At that very visit?
 14 A. Yes. We were there for six weeks, yes. It
 15 was during that period of time.
 16 Q. Well, you told -- didn't you testify in your
 17 deposition that you told -- that the day after this
 18 confrontation with Mr. Armstrong that -- that your
 19 relationship changed?
 20 A. That's correct. No, my -- our relationship
 21 was different before he and I had the heated
 22 discussion regarding the per diem and the definition
 23 of a per diem.
 24 Q. Are you sure about that?
 25 A. I'm relatively sure, yes.

Page 2005

1 Q. Do you think that's what you testified to?
2 A. I don't know.
3 Q. So you didn't think it was -- you didn't
4 think -- you didn't draw any connect between being --
5 referring to your superior in such an insubordinate
6 way and the fact that your superior might have been
7 agitated with you?
8 A. Would you repeat the question?
9 Q. You didn't draw any connection between the
10 change of attitude and your subordination --
11 insubordination?
12 A. No, none whatsoever. That was not the
13 dynamic in our relationship. --
14 Q. And that's what really is -- well, strike
15 that.
16 One of your jobs as Mr. -- as an
17 assistant to Mr. Armstrong was to go over every
18 Thursday and empty the garbage at Mr. Armstrong's
19 house on Jarrett, correct?
20 A. That's correct.
21 Q. And then you were also responsible for
22 clearing brush and that sort of thing at the -- at the
23 ranch?
24 A. No.
25 Q. Were you responsible for driving behind

Page 2006

1 Mr. Armstrong when he took training rides?
2 A. Yes.
3 Q. In Spain, did you do that?
4 A. Yes.
5 Q. And you had repeated problems with your
6 stomach, that is getting car sick, following
7 Mr. Armstrong on his training rides, did you not?
8 A. No.
9 Q. You know Mr. Koriath has testified about it
10 under oath that's he's seen you get sick and that you
11 had a continuing problem.
12 A. Mr. Koriath is not telling the truth.
13 Q. Mr. Koriath is a liar?
14 A. Mr. Koriath's not telling the truth or his
15 memory fails him.
16 Q. Well, do you say that Rebecca Dunlap is a
17 liar, also?
18 A. In what regard? Did she see me throwing up?
19 Q. No, I'm asking you if you assert that Mr. --
20 that Rebecca Dunlap lied in the affidavits that she
21 filed?
22 A. And what did she say? That I -- I don't have
23 anything to offer you today that I know of as being
24 untrue with regards to Ms. Dunlap, but Mr. Koriath, I
25 do.

Page 2007

1 Q. Did you read Ms. Dunlap's affidavit?
2 A. No, I don't believe that I did.
3 Q. Never did?
4 A. No.
5 Q. What about Mr. Russey, are you calling him a
6 liar, too?
7 A. Oh, I know he's a liar.
8 Q. But where -- well, how did Mr. Russey lie?
9 A. How did Mr. Russey lie? Well, he denied the
10 missed drug test. He -- that alone right there,
11 that's plenty. That's plenty.
12 Q. Let's talk a little bit about that missed
13 drug test for a moment. As I understand it, you got a
14 call from Mr. Russey and then you drove out there to
15 the ranch; is that right?
16 A. I was actually on my -- en route. I was on
17 my way to the ranch when -- when -- when he called me.
18 Q. Okay. So you got a call on your cell phone?
19 A. That's correct.
20 Q. And when you got to the ranch you saw a white
21 Suburban or something pass you by?
22 A. No, it was a -- Hyundai Sedona, a white one,
23 I believe. It was not a Suburban. It was a smaller
24 Kia or Hyundai.
25 Q. And Mr. Armstrong had gone to California; is

Page 2008

1 that your testimony?
2 A. That was the story that I was given, yes.
3 Q. Were you present at your wife's deposition
4 when she testified about this incident?
5 A. No, I was not present.
6 Q. Have you read what her -- what she said in
7 her deposition?
8 A. No.
9 Q. That this whole incident occurred when you
10 all were having guests at your house and you never
11 left the house?
12 A. No.
13 MR. TOWNS: I'm sorry, I'm going to have
14 to object to hearsay. We are getting in a lot of
15 depositions and affidavits that have never been
16 provided to us, so I'm going to object to hearsay.
17 MR. HERMAN: I'm just -- I'm going to
18 have to -- let me rephrase.
19 ARBITRATOR FAULKNER: Okay, rephrase it,
20 please.
21 Q. (BY MR. HERMAN) If your wife testified that
22 you got -- that Derek Russey called you at home, you
23 never left the house, you went back after the phone
24 call and partied on with your guests, would that be --
25 would she have been wrong about that?

Page 2009

1 MR. GILLESPIE: Let me just object. This
2 witness is entitled to see any portion of his wife's
3 deposition that this lawyer is asking him about. This
4 is his wife he's talking about.
5 ARBITRATOR FAULKNER: Subject to Mr.
6 Gillespie -- hand it to Mr. Gillespie first so he can
7 take a look at it, and then would you tell us what it
8 is that has just been handed to Mr. Gillespie?
9 MR. HERMAN: It's an excerpt from Allison
10 Anderson's deposition.
11 ARBITRATOR FAULKNER: Okay. Can you tell
12 us the page and any line, please?
13 MR. HERMAN: Mr. Gillespie has got my
14 only copy, so I don't know what page I'm on.
15 MR. GILLESPIE: Page 148 --
16 ARBITRATOR FAULKNER: Y'all, let's take
17 about a five-minute break. You can read whatever it
18 was you were just handed. I think a facilities break
19 is in order. It's 4:15.
20 MR. TILLOTSON: Just to confirm, this is
21 Ms. Anderson's deposition taken in his lawsuit?
22 MR. HERMAN: Yes, yes, right.
23 MR. TILLOTSON: Okay. Thank you.
24 (Recess 4:20 to 4:28 p.m.)
25 ARBITRATOR FAULKNER: Okay. We're ready

Page 2010

1 to go back.
2 MR. GILLESPIE: Yep.
3 ARBITRATOR FAULKNER: All right, please
4 proceed.
5 MR. TILLOTSON: My clients may interrupt
6 when they come in, but proceed.
7 Q. (BY MR. HERMAN) Have you had an opportunity
8 to review your wife's deposition?
9 A. Yes, sir.
10 Q. All right. Her description of that incident
11 differs significantly from yours, does it not?
12 A. Yes, it does.
13 Q. When you -- when you got to -- well, strike
14 that.
15 You went to Gerona in 2003 when
16 Mr. Armstrong was training there, correct?
17 A. Yes.
18 Q. And you and your wife went?
19 A. Yes.
20 Q. And I think that you indicated that your wife
21 was willing to help him out, him being Armstrong,
22 correct?
23 A. Yes.
24 Q. And, of course, your wife as paid \$500 a
25 week, correct?

Page 2011

1 A. I don't recall what she was paid.
2 Q. But she was paid for whatever she did while
3 in Gerona?
4 A. You'll have to ask her that.
5 Q. You don't know that?
6 A. I don't know.
7 Q. Okay. You know she was paid, you just don't
8 know how much; is that right?
9 A. Correct.
10 Q. And then -- your wife was pregnant though
11 while you all were there in 2003, correct?
12 A. Correct.
13 Q. So your wife left before you did to go back
14 to the states?
15 A. Yes.
16 Q. And did Mr. Armstrong tell you before the
17 birth of your child that you didn't have to stay in
18 Gerona, that you could go on back to the states and
19 gave you a paid paternity leave so you could be with
20 your wife when she had her baby?
21 A. Not exactly. I was already scheduled to go
22 back to the states. I wasn't intended to be in Gerona
23 any longer than that. I was only supposed to be there
24 for six weeks or so. My job with Mr. Armstrong ended
25 when the team took over. His first race of that year

Page 2012

1 was -- coincided with my departure from Gerona. The
2 part of your question about the paternity leave, yes,
3 that is correct.
4 Q. Well, what do you mean that is correct?
5 A. He, in an e-mail I recall said, you know,
6 consider yourself off for the next two months, which
7 really is sort of funny, because that was the nature
8 of the job anyway and --
9 Q. That you were going to be off for two months?
10 A. That I would be off for two months in the
11 middle of the summer. That's clearly stated in my --
12 in the first e-mail that I call the contract where he
13 says, you may not see me for a while, I may be gone
14 for weeks or months at a time. So I wouldn't call
15 that exactly paternity leave as handed down by
16 Mr. Armstrong; that was the nature of the job.
17 Q. Well, did you point that out to Mr. Armstrong
18 in 2003?
19 A. No.
20 Q. Mr. Armstrong intervened on behalf of you and
21 your wife to help the child of a friend of yours in
22 Washington who had cancer?
23 A. I don't know anything about that.
24 Q. You don't know anything about that?
25 A. No.

Page 2013

1 Q. Do you know anything about your wife -- Mr.
 2 Armstrong offering and actually taking your wife to
 3 Washington when he rented a private jet to go to
 4 Washington so she could visit with the family with the
 5 child with cancer?
 6 A. I believe that's incorrect.
 7 Q. What about the -- what about your wife
 8 requesting -- after you made your so-called discovery,
 9 requesting a letter of recommendation for a job as a
 10 massage therapist from Mr. Armstrong?
 11 A. I recall vaguely her wanting a letter of
 12 recommendation from Lance, but that's a question you
 13 would have to ask her. I don't know any of the
 14 details of that.
 15 Q. Now, as I understand your testimony,
 16 Mr. Anderson, that after this discovery in early
 17 February of 2004 your relations -- your relationship
 18 was he treated you like a domestic servant or
 19 something like that; is that right?
 20 A. That's correct.
 21 Q. And in that connection, he accommodated your
 22 wife's parents for a week or two in Gerona, Spain
 23 after that?
 24 A. That was -- that arrangement was made prior
 25 to our falling out.

Page 2014

1 Q. My question is, did your wife's parents --
 2 were they accommodated by Mr. Armstrong in his
 3 apartment for however long they stayed in Spain
 4 without any charge?
 5 A. Yes, they stayed at his apartment while he
 6 was away for a week, yes.
 7 Q. Did you -- do you think you got along well
 8 with Sheryl Crow?
 9 A. I didn't have enough interaction with her to
 10 form an opinion on that.
 11 Q. Well, as I understand it, you had a -- you
 12 took umbrage at the fact that you were asked to knock
 13 before you entered the apartment when Mr. Armstrong
 14 and Ms. Crow were staying there; is that correct?
 15 A. Well, I wouldn't characterize it precisely
 16 like that, no.
 17 Q. Isn't that precisely what you -- one of the
 18 things you were complaining about that in 2003 you got
 19 to come in and out whenever you wanted to and then in
 20 2004 you were asked to knock when coming -- before you
 21 came in?
 22 A. Not precisely, no. It was the nature that
 23 that occurred that I found distasteful, not the fact
 24 that he wanted any privacy, but just that it -- the
 25 way that it was handed down, the -- the --

Page 2015

1 Q. In what way was it handed down?
 2 A. Well, it was very -- very out of character
 3 for him to be curt and terse with me. This is a guy
 4 that -- and Sheryl, as well, quite immodest and never
 5 showed any discretion or hesitation to say the most
 6 intimate things to me, whether or not I wanted to hear
 7 them. So it was out of character and -- and ugly the
 8 way it was -- it was put.
 9 Q. Let me ask you this, when you made this
 10 discovery, this so-called discovery in February of
 11 2004, you never opened the box, did you?
 12 A. No.
 13 Q. You never shook the box?
 14 A. Not that I recall.
 15 Q. And when I asked you what was in the box, you
 16 said you had no idea. It could have been JuJu beads
 17 for all you know; isn't that a quote?
 18 A. Without knowing what -- without opening the
 19 box, I would never know what was in it, that's true.
 20 Q. Didn't you tell me, it might have been JuJu
 21 beads for all I know?
 22 MR. GILLESPIE: Objection. If he's
 23 asking what he told him under oath in a deposition,
 24 he's entitled to look at it.
 25 ARBITRATOR FAULKNER: Would you give him

Page 2016

1 a reference, please, to his deposition?
 2 MR. BREEN: We didn't bring it with us.
 3 MR. GILLESPIE: Otherwise he's just going
 4 to say I don't know. That's the way that works.
 5 MR. HERMAN: Page 252 of his deposition.
 6 Do we have a copy of that?
 7 MR. TILLOTSON: I've got one. 2 what?
 8 MR. HERMAN: 252.
 9 ARBITRATOR FAULKNER: Does the witness
 10 have a copy of that?
 11 Thank you.
 12 MR. TILLOTSON: 252.
 13 Q. (BY MR. HERMAN) Do you recall telling me
 14 that now? Now -- does that refresh your recollection?
 15 A. I don't recall saying it, but if it's in the
 16 court record, then it must be true.
 17 Q. And you never said a word about this to
 18 anyone; is that right?
 19 A. That's true. I didn't tell my wife.
 20 MR. GILLESPIE: I've got to object. In
 21 what time frame?
 22 THE WITNESS: That's --
 23 MR. GILLESPIE: Please.
 24 A. When did I never tell anyone?
 25 Q. (BY MR. HERMAN) You never told anyone --

Page 2017

1 A. Until what point?
2 Q. Until the Tour de France of 2004?
3 A. Yes; that's true.
4 Q. You told your wife then?
5 A. Yes.
6 Q. You never told anyone else about it ever
7 until this lawsuit was filed, did you?
8 MR. GILLESPIE: Objection to what he has
9 told counsel.
10 MR. HERMAN: I'm asking what he --
11 MR. GILLESPIE: That's asking for
12 attorney-client privileged information. That anyone
13 question covers the whole world.
14 ARBITRATOR FAULKNER: Mr. Herman, would
15 you be kind enough to exclude counsel and then please
16 ask the question again, if you could.
17 Q. (BY MR. HERMAN) I'm not inquiring about
18 anything you told your lawyer, okay?
19 A. Okay.
20 Q. Until you filed your lawsuit in Austin,
21 actually until several months after you filed your
22 lawsuit in Austin, you had not told anyone about this
23 so-called discovery of yours, correct?
24 A. No, that's not true.
25 Q. Okay. Who else besides your wife six months

Page 2018

1 after you found -- made your discovery, who else did
2 you tell?
3 A. Up to the point -- I had probably told three
4 or four people between the time that I was fired and
5 the time that Mr. Armstrong sued me.
6 Q. Who did you tell?
7 A. I spoke to this -- let's see, I spoke to my
8 friend John Stokes, Andrew Legume, other people that
9 are listed in the, whatever you guys call this stuff.
10 It's -- it was in part of the case.
11 Q. Did you ever tell Darrin Fisher that?
12 A. No.
13 Q. Do you know who Darrin Fisher is?
14 A. Oh, yes.
15 Q. Darrin Fisher, was he ever out there at
16 Mr. Armstrong's ranch when you and your friends out
17 there?
18 A. Oh, sure.
19 Q. And what were you and your friends doing out
20 there?
21 A. When?
22 Q. When Mr. Fisher was present?
23 A. Riding mountain bikes, building trails, that
24 sort of thing.
25 Q. All right. After you found -- after you made

Page 2019

1 this discovery of the box that you never opened, did
2 you ever tell Mr. Armstrong about it?
3 A. No.
4 Q. And you -- it was your position that somehow
5 Mr. Armstrong was able to divine that you had found
6 this box?
7 A. Yeah, that's my position, yes.
8 Q. And it was your position that it was an
9 anabolic steroid?
10 A. Yes.
11 Q. Something designed to build body mass?
12 A. I don't know what it's designed to do, I'm
13 not a doctor.
14 Q. And that Mr. Armstrong from that point in
15 February of 2004 was terribly afraid that you were
16 going to tell the world about what you had found; is
17 that --
18 A. That's any assertion.
19 Q. And in this lawsuit in Austin, you keep
20 saying that Mr. Armstrong sued you. Of course, there
21 was no lawsuit pending when Mr. -- when Mr. Gillespie
22 defined Mr. Armstrong as a defendant, correct? On
23 December 9, there was no lawsuit pending?
24 A. I don't know the answer to that question.
25 Q. Mr. Armstrong filed a declaratory judgment

Page 2020

1 action seeking to have the court declare that there
2 was no contract between the two of you, right?
3 A. He sued me.
4 Q. Do you know that's what he was asking for or
5 do you not know?
6 A. Yes.
7 Q. Is that right?
8 A. Yes. He sued me, yes.
9 Q. Did I say that right?
10 A. Yes. He sued me, yes, seeking a declaratory
11 judgment, yes.
12 Q. Okay. And then on January the 6th, 2005, you
13 filed a 35 or 36-page petition asserting that
14 Mr. Armstrong had intentionally inflicted emotional
15 distress on you?
16 A. Yes.
17 Q. That you had a contract that he breached?
18 A. Yes.
19 Q. That you -- that he defrauded you?
20 A. Yes.
21 Q. He fraudulently induced you?
22 A. Yes.
23 Q. And all of those claims were either dismissed
24 by -- one way or another --
25 MR. GILLESPIE: Objection.

Page 2021

1 Q. (BY MR. HERMAN) -- either by summary
 2 judgment or by --
 3 MR. GILLESPIE: You're asking a
 4 non-lawyer and you know that's not true; the
 5 defamation claim was not dismissed.
 6 MR. HERMAN: I didn't say the defamation
 7 claim.
 8 MR. GILLESPIE: You said all of them.
 9 ARBITRATOR FAULKNER: Guys, one at a
 10 time, please. I don't have bailiffs here. There are
 11 times when they would be useful.
 12 Mr. Gillespie, do you have -- would you
 13 tell me what your objection was, please? And then we
 14 will just take it one point at a time.
 15 MR. GILLESPIE: Well, first it's
 16 multifarious; secondly, when he asked him -- I
 17 believe, he's listed the defamation claim as a claim
 18 and all of them were thrown out. I'm going to --
 19 objecting because we have already got a ruling on this
 20 that the court -- the panel is going to get the
 21 rulings. He's not a lawyer, but I can tell you that
 22 the defamation claim remained at the time the case got
 23 resolved.
 24 ARBITRATOR LYON: Let me ask a question,
 25 Mr. Chairman.

Page 2022

1 So Mr. Gillespie, is it your position
 2 that every other claim was granted a summary judgment
 3 or dismissed by the court except for the defamation;
 4 is that your position?
 5 MR. GILLESPIE: Yes.
 6 ARBITRATOR LYON: All right, thank you.
 7 ARBITRATOR FAULKNER: Mr. Herman, would
 8 you go ahead and rephrase and then ask the question so
 9 we can get the answer to the question.
 10 Q. (BY MR. HERMAN) The two people that you
 11 claim Mr. Armstrong defamed you to were your wife and
 12 Mr. Derek Russey, correct?
 13 A. No, no, I believe a guy named Eric Futello
 14 (phonetic) was on that list of people.
 15 Q. Okay. When was it that Johan Museeuw or
 16 whatever -- however you pronounce it --
 17 A. Museeuw.
 18 Q. When -- when did that conversation take place
 19 with Mr. Armstrong about Johan Museeuw?
 20 A. I could -- I could pinpoint it if I went back
 21 and -- and looked at the dates on the news stories,
 22 but it was right after VeloNews or one of the other
 23 publications had reported on this. To the best of my
 24 recollection, it was between November of 2003 and
 25 April of 2004. So it was in between the time of --

Page 2023

1 yeah, that's correct. It had been -- he was home,
 2 which means it was in the off season. It would have
 3 had to have been the fall or winter and it was prior
 4 to our trip to Gerona, which was in January, February,
 5 but it could have been after -- and before the Tour,
 6 so it was -- yeah, it was sometime in the winter or
 7 spring of 2003-2004.
 8 Q. When we first began this -- our conversation
 9 here today I think you confirmed that you had never
 10 seen Mr. Armstrong do anything illegal, never been
 11 requested to do anything illegal, never seen him
 12 ingest any prohibited substance and have no firsthand
 13 knowledge of that. That's a fair statement, is it
 14 not?
 15 A. Correct.
 16 Q. All right. And so you have no firsthand
 17 knowledge of Mr. Armstrong doing any -- engaging in
 18 any prohibited conduct at any time and particularly
 19 not in 2001, 2002, 2003, or 2004; isn't that --
 20 A. That's correct.
 21 Q. -- a fair statement?
 22 A. That's correct.
 23 ARBITRATOR FAULKNER: Is this something
 24 for the witness to be --
 25 MR. BREEN: Mr. Chairman, I passed down

Page 2024

1 to him and Mr. Tillotson --
 2 MR. HERMAN: Your Honor, we passed -- we
 3 passed out exhibits which have been marked 132 to 139
 4 and I'm just going to ask the witness a few questions
 5 about them if it pleases the panel.
 6 ARBITRATOR FAULKNER: Very well.
 7 Q. (BY MR. HERMAN) Mr. Anderson, do you have
 8 Exhibit 132 in front of you?
 9 A. Yes.
 10 Q. This is the e-mail I presume that you were
 11 referring to earlier about the paternity leave?
 12 A. Yes.
 13 Q. And this is from Mr. Armstrong to you and you
 14 had been working for Mr. Armstrong only, what, about
 15 four or five months?
 16 A. Yes, that's correct.
 17 Q. And among other things Mr. Armstrong says, I
 18 got your note when I got home last. Thanks. It was
 19 nice, but, homey -- short for home boy or something to
 20 that effect?
 21 A. You would have the ask him. He wrote it.
 22 Q. But, homey, I not only totally understand
 23 your fear and anxiety, I could feel it, too. Do you
 24 recall what sort of fears and anxieties you made
 25 Mr. Armstrong aware that you were suffering?

<p style="text-align: right;">Page 2025</p> <p>1 A. No, that was -- that would have to be a 2 question for him. I don't feel his fears or 3 anxieties. 4 Q. Well, what did your note say, I guess is the 5 question? 6 A. I don't recall. Do you have it? 7 Q. Did you describe your fears and anxieties? 8 A. I don't recall. 9 Q. Anyway, moving on. Mr. Armstrong says, you 10 and Allison -- or Allison and you need to be ready and 11 no matter how hard you try to prepare, you can't. 12 Kids are huge. They're little earthquakes that you 13 will never forget. So on that note I'm glad you're 14 back and getting ready. Good luck with all. Consider 15 yourself now to be on paternity leave with full pay, 16 of course. And don't be surprised if you don't hear 17 from me often, et cetera, et cetera. 18 Is this some -- this is in character with 19 the kind of e-mails and communications that you had 20 with Mr. Armstrong, at least back during this time 21 frame, is it not? 22 A. Yes. 23 Q. And Mr. Armstrong at this point is -- has 24 already won -- I feel like Mr. Compton -- he's already 25 won four tours in a row, correct?</p>	<p style="text-align: right;">Page 2027</p> <p>1 A. Three for sure. 2 Q. And you're apologizing to Mr. Armstrong and 3 outlining the extremely personal issues and 4 apologizing for being sort of brooding and dark, 5 correct? 6 A. Correct. 7 Q. And as a matter of fact, you describe 8 yourself as being an unpleasant person to be around, 9 correct? 10 Look at the last paragraph on the second 11 page. 12 A. Okay. 13 Q. And three weeks after this alleged discovery, 14 you say to Mr. Armstrong -- after having been 15 appalled, as I believe you put it in your direct 16 testimony, you tell him that I am very happy to be 17 working for you. I'm equally sorry for laying all 18 this personal stuff on you. And then you say, you 19 have given me an opportunity that I could never get 20 from anyone else and for that I'm grateful. Good luck 21 in Portugal. Does that sound like an e-mail from 22 someone who is appalled with the person to whom he's 23 sending it? 24 A. That sounds like an e-mail from someone who 25 was speaking from the heart to someone who was more</p>
<p style="text-align: right;">Page 2026</p> <p>1 A. Yes. 2 Q. And he's a pretty famous guy, correct? 3 A. Correct. 4 Q. Right? 5 A. Correct. 6 Q. The world's premiere cyclist as of that time? 7 A. Perhaps in your view. 8 Q. Now, after -- you made this alleged discovery 9 in the medicine cabinet in early February? 10 A. Late January, early February. 11 Q. Of 2004? 12 A. Correct. 13 Q. And you got over there early and you were 14 cleaning out the bathroom when you say you made this 15 discovery? 16 A. Correct. 17 Q. And after that your relationship with 18 Mr. Armstrong deteriorated immediately, correct? 19 A. Correct. 20 Q. Look at Exhibit 133. The first e-mail in 21 there is from you to Mr. Armstrong on Tuesday, 22 February 17, subject apology. Did I read that right? 23 A. Yes. 24 Q. And this is some -- at least two weeks after 25 your alleged discovery?</p>	<p style="text-align: right;">Page 2028</p> <p>1 than simply just an employer. He was my friend, we 2 spoke about many personal issues, and this is where 3 this stems from. 4 Q. And then Mr. Armstrong responds on the 23rd, 5 and says thank you for the apology, and thanks for 6 sharing what is going on in your head. But to be 7 perfectly and completely honest with you, I think you 8 need help. You need to speak with someone and get 9 this stuff out. And I'm not sure if you're aware of 10 it but you are a grumpy man that can be really tough 11 to deal with and understand, et cetera, et cetera. 12 And then he finishes up by saying that he 13 doesn't need any more negative forces in his life, no 14 black cloud, no bad vibes, et cetera, correct? 15 A. Correct. 16 Q. And would you -- I take it you don't consider 17 yourself a black cloud or a bad vibe; is that right? 18 A. No, only you and Mr. Armstrong have said that 19 about me. I haven't had anybody else tell me that. 20 Q. Well, you were somewhat of a black cloud in 21 my office when you had to be ejected from your 22 deposition -- from a deposition; isn't that right? 23 A. I found these -- these proceedings and your 24 personal demeanor towards me and my wife and 25 Mr. Breen's and Mr. Stapleton's to be reprehensible.</p>

Pages 2025 to 2028

Page 2029

1 And forgive me for stating my opinion and losing my
 2 temper, but sometimes a little righteous indignation
 3 is what's in store.
 4 Q. But it is true, you had to be asked to leave
 5 our offices, did you not?
 6 A. Actually, my attorney asked me to come
 7 outside with him. You didn't ask me to leave, nor did
 8 Mr. Breen.
 9 Q. Look at Exhibit 134. A month -- this is an
 10 e-mail dated March 3rd, a month after your alleged
 11 discovery of -- your wife e-mails Mr. Armstrong,
 12 congrats for the Postal win today, correct?
 13 A. That's correct.
 14 Q. And were her parents at the -- at the
 15 apartment, staying there at that time?
 16 A. I don't know.
 17 Q. Look at Exhibit 135. E-mail, March 14.
 18 Mr. Armstrong says, Miguel, I need to see if you can
 19 pick up Juan on Tuesday from Barcelona. Now, is
 20 that -- is that the kind of tone you would expect from
 21 somebody who treats you like a domestic servant?
 22 A. No, not at all. That's just a simple -- a
 23 simple request.
 24 Q. Well, I thought you said after this discovery
 25 in early February that Mr. Armstrong -- that your

Page 2030

1 relationship deteriorated and that he treated you like
 2 dirt basically?
 3 A. That is what I'm saying, but it doesn't -- it
 4 doesn't come out in the writing. It only came out in
 5 our personal interaction, our face-to-face
 6 interactions. There would be a much better paper
 7 trail for us all to prove that he is that kind of
 8 person if you guys had saved that laptop.
 9 Q. That's important for you to prove that he's
 10 not a nice person, isn't it?
 11 A. No.
 12 Q. Why would you -- why would you gratuitously
 13 give interviews in Lemonde and other newspapers saying
 14 that he's a cheater?
 15 A. Because I believe that to be true.
 16 Q. Yet you have never seen him do anything
 17 illegal, but yet you're prepared to go in French
 18 newspapers, American newspapers and go on ESPN
 19 television for 10 or 15 minutes telling the world that
 20 he's a cheater and that it's important to you, it's
 21 your objective to get back at him and to prove he's a
 22 cheater?
 23 A. It's not getting back, it's telling the
 24 truth. It has nothing do with getting back; no
 25 revenge.

Page 2031

1 Q. You told Lemonde that -- incidentally they
 2 came to interview you there in Austin? Lemonde, the
 3 French paper, Lemonde?
 4 A. I don't recall if it was Lemonde or LeMont,
 5 but I had several interviews last summer.
 6 Q. And they came into an office, met with you
 7 and your lawyers?
 8 A. Yes.
 9 Q. And you told them that Mr. Armstrong was
 10 suing you for extortion, didn't you?
 11 A. (Nods head.)
 12 ARBITRATOR FAULKNER: You have to answer
 13 yes or no. Thank you.
 14 A. I don't recall. I'm trying to think of it
 15 here. I don't recall me saying he's suing me for
 16 extortion.
 17 Q. (BY MR. HERMAN) Have you read the Lemonde
 18 article?
 19 A. I don't -- maybe I have. I'm not sure.
 20 Q. Well, is it true or not true that during this
 21 interview with Lemonde in your lawyer's office you
 22 said that Armstrong was suing you for extortion and
 23 that your lawyers were defending you for nothing?
 24 MR. GILLESPIE: I'm going object if he's
 25 purporting to be reading from a article, the witness

Page 2032

1 is entitled to look at it, otherwise the answer has to
 2 be I don't know.
 3 MR. HERMAN: The witness is capable of
 4 answering the question.
 5 MR. GILLESPIE: Not without looking at
 6 the document.
 7 ARBITRATOR FAULKNER: Stop for a second.
 8 We have got an objection.
 9 ARBITRATOR FAULKNER: Mr. Herman, do you
 10 have a copy of the article in Lemonde in English that
 11 this witness could see?
 12 MR. HERMAN: I do, but my question was
 13 whether he recalled saying that, and if he doesn't
 14 recall, that's fine.
 15 ARBITRATOR LYON: Well --
 16 MR. HERMAN: But in any event, I'll --
 17 ARBITRATOR FAULKNER: Why don't you show
 18 it to him, please.
 19 MR. HERMAN: May I approach?
 20 ARBITRATOR FAULKNER: Mr. Tillotson, you
 21 may approach the witness as well.
 22 A. Somebody else wrote this and I can't testify
 23 to what someone else wrote. I can only tell you what
 24 I told them.
 25 Q. (BY MR. HERMAN) That's what I'm asking you.

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1 A. And I did not tell them Lance Armstrong was
2 suing me for extortion. They may have inferred that
3 because you, in fact, accused my lawyers of extortion;
4 that's probably where this came from, but I did not --
5 Mr. Armstrong sued me for declaratory judgment. I
6 have countersued him for defamation and a load of
7 other charges, so the answer to your question is
8 clear.

9 Q. So did you say that or not?

10 A. I just told you I did not say that to the
11 best of my recollection.

12 ARBITRATOR FAULKNER: Mr. Herman, would
13 you be kind enough to go right back over to your
14 table, please. Thank you.

15 MR. HERMAN: Thank you.

16 ARBITRATOR FAULKNER: Did you have some
17 other questions?

18 MR. HERMAN: Yes, I do.

19 ARBITRATOR FAULKNER: Please proceed with
20 them.

21 MR. HERMAN: Okay.

22 Q. (BY MR. HERMAN) Look at Exhibit 136. This
23 is after you say that Mr. Armstrong started treating
24 you like dirt, correct?

25 A. That's correct.

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1 Q. Now, look at 137. The date on this e-mail
2 is July 27, 2004, which is -- I'll represent to you is
3 two days after the conclusion of the 2004 Tour de
4 France. Did you send this e-mail to Mr. Armstrong?

5 A. Yes, I did.

6 Q. This is after all of the events that you
7 claim took place, that is, you were being treated like
8 dirt, you had told your wife that Lance Armstrong was
9 a cheater and that you were appalled at his conduct,
10 correct?

11 A. That's correct.

12 Q. And the last sentence of that -- well, the
13 last couple of sentences you say, well, I thought a
14 lot about the conversation you and I had before you
15 last left and have come to the conclusion that we have
16 the two best jobs in the world. Your job is only
17 slightly more enviable because you get to ride your
18 bike for a living. I guess that this is a big thanks.
19 I'm proud to know you and eternally grateful for
20 everything you've done for me and my family.
21 Deadman's Hole is waiting.

22 Did I read that accurately?

23 A. Yes.

24 Q. Were you lying when you wrote that?

25 A. No.

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1 Q. Now, look at Exhibit 138.

2 MR. TOWNS: I'm going to have to object
3 to 138.

4 ARBITRATOR FAULKNER: Wait a second. I
5 haven't gotten there, yet.

6 MR. HERMAN: I'm just going to refer to
7 the affidavit that's attached to it.

8 MR. TOWNS: That's the part I would
9 object to.

10 ARBITRATOR FAULKNER: Okay. Since we
11 haven't had a chance to see it yet --

12 MR. TOWNS: Our objection would be based
13 on hearsay.

14 ARBITRATOR FAULKNER: What is it that
15 we're supposed to -- do you have questions based on
16 these affidavits, Mr. Herman?

17 MR. HERMAN: I do, but my questions are
18 not so much about the truth of the affidavits as they
19 are whether Mr. Anderson is taking the position that
20 Mr. Koriath's affidavit, Mr. -- Ms. Dunlap's
21 affidavit, and Mr. Russey's affidavit are untrue, and
22 if so, in what respect.

23 MR. TOWNS: Well, if I may respond.

24 ARBITRATOR FAULKNER: Please respond.

25 MR. TOWNS: That would necessarily

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1 require an assertion that they are true and then --
2 for the witness to respond to that, again, by the
3 definition of hearsay we would object to.

4 MR. HERMAN: Well, that's not -- that's
5 not necessarily the inescapable deduction from that.
6 The point is that Mr. Anderson has propounded an
7 account of certain events and all I'm asking him to do
8 is either say whether or not the accounts that are set
9 forth in these three affidavits comport or don't
10 comport with his testimony. I'm not asking him to
11 verify that they are true.

12 ARBITRATOR FAULKNER: We are going to
13 overrule your objection and let him ask the question.
14 We will give it due and appropriate weight.

15 Q. (BY MR. HERMAN) Now, the -- first of all,
16 with respect to the alleged conversation that you had
17 with Ms. Dunlap, you say that's true or untrue?

18 A. Well, that's untrue.

19 MR. TOWNS: Where are you reading?

20 MR. HERMAN: I'm on Exhibit E, I'm sorry.

21 ARBITRATOR FAULKNER: Exhibit E -- it's
22 the attachment, I'm sorry.

23 MR. HERMAN: Can you put it up?

24 MR. TOWNS: I have it now.

25 MR. HERMAN: It's -- it's the Exhibit E

1 to that document right there.
 2 Q. (BY MR. HERMAN) Ms. Dunlap says --
 3 MR. HERMAN: We don't need to look at it
 4 right now, but if we get it up there we'll be ready.
 5 Thank you.
 6 Q. (BY MR. HERMAN) Ms. Dunlap says that you
 7 told unequivocally --
 8 MR. GILLESPIE: What paragraph?
 9 MR. HERMAN: 15.
 10 Q. (BY MR. HERMAN) Mr. Anderson, told me
 11 unequivocally not once but several times, once in the
 12 presence of his wife, that he had no doubt that
 13 Armstrong had never used drugs or any other illegal
 14 performance enhancing assistance in his career.
 15 He told me that Mr. Armstrong would not
 16 have been capable of drug use because of his
 17 character.
 18 Do you admit or deny that?
 19 A. Oh, I absolutely deny that.
 20 Q. Look at Mr. Koriath's affidavit.
 21 MR. TILLOTSON: Whose?
 22 MR. HERMAN: Mr. Koriath's affidavit,
 23 Exhibit --
 24 MR. TOWNS: What exhibit?
 25 MR. HERMAN: It's Exhibit D to the same

1 asked to pick up Mr. Armstrong's Suburban and drive it
 2 past the waiting inspectors at the gate of the ranch.
 3 Mr. Koriath is, to my knowledge, well aware of the
 4 testing procedures of the random drug tests. Control
 5 as they're also known. Mr. Koriath is a category II
 6 road racer and subject to the same rules and
 7 regulations as professional cyclists are to my
 8 knowledge and he should be well aware of these things.
 9 ARBITRATOR CHERNICK: Can we go off the
 10 record for just a minute?
 11 ARBITRATOR FAULKNER: Sure.
 12 (Recess 5:09 to 5:12 p.m.)
 13 ARBITRATOR FAULKNER: We are back on the
 14 record.
 15 All right, please proceed.
 16 Q. (BY MR. HERMAN) Now, if you look at
 17 Exhibit 139, Mr. Anderson, this is a -- I'll just
 18 represent to you that this is a protective order
 19 issued by a Travis County District Judge on June 30,
 20 2005. You were cooperating with SCA in connection
 21 with this case prior to June 30, 2005, were you not?
 22 MR. GILLESPIE: Objection to that
 23 question, unless he wants to define cooperating with.
 24 Q. (BY MR. HERMAN) You were providing -- you
 25 had provided SCA information and informed them when

1 pleading.
 2 ARBITRATOR FAULKNER: So it would be on
 3 page 2?
 4 ARBITRATOR LYON: Paragraph 5.
 5 MR. HERMAN: Yes.
 6 Q. (BY MR. HERMAN) Now, Mr. Koriath said in
 7 repudiating your pleadings, he claims that he was
 8 never requested to pick up Mr. Armstrong's Suburban or
 9 that any inspectors were at Mr. Armstrong's home
 10 ranch.
 11 ARBITRATOR FAULKNER: You need to speak
 12 up, Mr. Herman. I think our court reporter is having
 13 trouble hearing you.
 14 Q. (BY MR. HERMAN) Mr. Koriath essentially
 15 repudiates your story. Do you agree or disagree with
 16 the sworn affidavit of Mr. Koriath, paragraph 1.
 17 MR. GILLESPIE: I object. Paragraph 5
 18 has got a bunch of sentences and some of them are
 19 argument and it's not fair to ask him about the
 20 arguments. But if he wants to ask him specifics,
 21 obviously that's what he's here for.
 22 Q. (BY MR. HERMAN) Tell me anything in
 23 paragraph 5 with which you disagree, or that you say
 24 that Mr. Koriath is lying about.
 25 A. Mr. Russey informed me that Mr. Koriath was

1 your -- when the depositions were going to be taken of
 2 Knaggs and Koriath, et cetera -- either you or your
 3 attorney did, correct?
 4 MR. GILLESPIE: Objection to going into
 5 what your attorney did. He can't answer that.
 6 ARBITRATOR FAULKNER: Mr. Herman, why
 7 don't you ask of this witness what he did; that will
 8 expedite it.
 9 Q. (BY MR. HERMAN) Were you aware that your --
 10 that your attorney had requested that Mr. Tillotson
 11 and Mr. Compton be allowed to attend those
 12 depositions?
 13 A. Yes, I'm aware of that.
 14 Q. Now, after you made your discovery in
 15 February -- early February, you recall Mr. Armstrong
 16 racing in the Tour de Georgia in April?
 17 A. Yes.
 18 Q. And by this time, of course, you are
 19 appalled. Do you recall -- I'm not -- I don't have
 20 copies of this e-mail presently, but let me hand this
 21 to your lawyer and just -- if you would just read out
 22 this portion here that I'm marking of the e-mail that
 23 you sent to Mr. Armstrong on April 25th, 2004, two and
 24 a half months after your alleged discovery.
 25 A. The Suburban and the new Subaru --

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1 ARBITRATOR FAULKNER: You have to
2 read more slowly. The court reporter --
3 A. The Suburban and the new Subaru are at the
4 house. Damn that turbo is fast, as was the sprint you
5 threw down this week. It was very cool to see that
6 happen on this side of the pond. I was starting to
7 think that cycling was dying again in America.
8 Terrence and Shirley came by to clean on Thursday;
9 said that your mom asked them. It looks good.
10 Any objection to owning an air
11 compressor? With the garage full of toys with
12 pneumatic tires we really could use one, 3 to \$500.
13 Q. All right. And you're congratulating
14 Mr. Armstrong for a great sprint in the Tour de
15 Georgia, even after you are appalled by your
16 discovery?
17 A. That's correct.
18 Q. And after you have had this revelation
19 supposedly from Mr. Armstrong about everybody does it?
20 A. That's correct.
21 Q. Okay. When I asked you in your deposition
22 and if you'll look at page 214 --
23 MR. HERMAN: Would you hand me that depo
24 back? I left my copy over there.
25 ARBITRATOR FAULKNER: Excuse me,

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1 gentlemen. With the last document, was that the only
2 copy that existed, because it had -- we want to make
3 sure it comes back so it ultimately can get in the
4 record.
5 MR. GILLESPIE: It's in the record
6 because he read it.
7 MR. HERMAN: Yes, he just read it.
8 ARBITRATOR CHERNICK: We don't need any
9 more than that.
10 MR. HERMAN: I didn't mark it.
11 ARBITRATOR FAULKNER: If you didn't mark
12 it, that's fine. we will move on.
13 Q. (BY MR. HERMAN) If you'll go to page 214 of
14 your deposition. Actually, you're -- the question was
15 on page 213. 213, line 17. I said, well, you had a
16 problem communicating this so-called discovery of
17 yours, didn't you? And your answer was?
18 A. Do you want me to read it?
19 Q. Would you read it?
20 A. You want me to read this?
21 Q. Yes, please.
22 A. I didn't have any problem communicating with
23 it. I just chose not to because it was more important
24 for me to live up to the terms of the agreement.
25 Q. Hang on one second. Would you slow down a

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1 little bit because this nice lady is having trouble
2 taking down what you're saying. Go ahead.
3 A. Do you want me to start from the beginning?
4 Q. No you can continue.
5 A. I would have gone to the grave with that
6 knowledge. I didn't have any intention whatsoever
7 of -- of repeating that stuff, because, again, it was
8 just only things that I had seen throughout the course
9 of my employment. If I had seen him taking something
10 I knew was wrong, that would be different, but it was
11 only my hunch and I left it at that. And I only
12 wanted to move on with my life at the end of this
13 employment. That was it.
14 Q. And that was on March the 30th of 2005?
15 A. Yes.
16 Q. And on March the 31st you went on national
17 television that night and told the world that
18 Mr. Armstrong was a cheater?
19 A. Yes.
20 Q. Even though the day before it was just a
21 hunch?
22 A. Pretty strong hunch.
23 MR. HERMAN: I'll pass the witness.
24 ARBITRATOR FAULKNER: Any questions?
25 Any questions for him?

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1 ARBITRATOR LYON: Yes.
2 MR. HERMAN: Wait just a second.
3 MR. BREEN: Let the --
4 MR. HERMAN: Well, Mr. Gillespie's
5 coaching the witness while he's on the witness stand.
6 MR. GILLESPIE: I resent that.
7 ARBITRATOR FAULKNER: Well, wait --
8 MR. GILLESPIE: I object and ask that
9 that be stricken. I'm entitled to talk to my client
10 and the implication that I'm coaching --
11 ARBITRATOR FAULKNER: Wait one second.
12 MR. HERMAN: I don't think he's entitled
13 to talk to him while he's on the stand. But anyway,
14 excuse me.
15 ARBITRATOR FAULKNER: He can consult with
16 his client. The Senator was about to ask a question.
17 Unfortunately, I was making notes when y'all popped up
18 with that. Clearly counsel and his client can
19 converse and if they go out -- wanted to go out in the
20 hallway and do that, it would simply delay the
21 proceedings. So, you know, let's expedite this,
22 especially since it's 5:15 and we would like to finish
23 with this gentleman today.
24 Senator, you would like to ask a
25 question? Would you please proceed with it?

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1 ARBITRATOR LYON: Yes. You said that you
 2 were an educated man, what's your educational
 3 background?
 4 THE WITNESS: I have a BA in
 5 anthropology, in cultural anthropology. I was
 6 studying for my master's in middle eastern studies at
 7 The University of Texas when I decided that I enjoyed
 8 the bicycle business much more. I'm a student of
 9 languages. I've studied five languages, including
 10 English.
 11 ARBITRATOR LYON: Well, how many hours do
 12 you have in postgraduate work at the University of
 13 Texas?
 14 THE WITNESS: I need to write my thesis
 15 in middle eastern studies to finish that.
 16 ARBITRATOR LYON: Okay. And when did --
 17 when was that that you went to college?
 18 THE WITNESS: My undergrad I graduated in
 19 '95. So graduate school, I believe, was in '99 --
 20 '98, '99.
 21 ARBITRATOR LYON: Okay. Since that
 22 period of time -- since you -- '99, you worked as a
 23 bike mechanic?
 24 THE WITNESS: Yes, sir.
 25 ARBITRATOR LYON: Before you went to work

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1 for Armstrong, what were you making -- were you
 2 getting paid by the hour?
 3 THE WITNESS: Yes, sir.
 4 ARBITRATOR LYON: How much?
 5 THE WITNESS: I believe it was \$13.50, I
 6 think. The -- the wage in the -- prior to that I was
 7 living here in Dallas. The wage was much higher, but
 8 when I transferred down to UT, they didn't pay bike
 9 mechanics nearly what they did up here.
 10 ARBITRATOR LYON: Okay. You talked about
 11 when you went to Gerona, you found this box, okay.
 12 What color was the box?
 13 THE WITNESS: It was white.
 14 ARBITRATOR LYON: And where was it?
 15 THE WITNESS: It was in the medicine
 16 cabinet. It was in the bathroom, two sinks, cabinets
 17 below, the linen closet on the side of the -- the
 18 linen cabinet, really a deep cabinet that sort of
 19 doubled as a medicine cabinet, there were towels and
 20 such in there.
 21 ARBITRATOR LYON: Had those towels been
 22 left in there before?
 23 THE WITNESS: Yes, most likely. The
 24 house -- when we found it, the house looked like
 25 someone had left in the middle of a meal months

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1 before, which was how Mr. Armstrong had predicted it
 2 would be when we got there. He said, look we left in
 3 a hurry and it's going to be a mess.
 4 ARBITRATOR LYON: And you went to a
 5 computer at that -- and it was a white box?
 6 THE WITNESS: Yes, sir.
 7 ARBITRATOR LYON: What was the language?
 8 THE WITNESS: You know, I don't recall
 9 specifically what the language was. I recall the
 10 trademark name, which threw up red flags and the
 11 pharmaceutical name, the pharmacological name, in
 12 parentheses, if I recall correctly, beneath the
 13 trademark name. And that was when I figured out that
 14 it was --
 15 ARBITRATOR LYON: Was it a prescription
 16 drug?
 17 THE WITNESS: Well, I'm not a doctor, but
 18 I would say, yes, it was a prescription drug, but
 19 there was no label on.
 20 ARBITRATOR LYON: So there was no
 21 prescription drug label on there for anybody?
 22 THE WITNESS: No, sir, not to the best of
 23 my recollection.
 24 ARBITRATOR LYON: You don't remember the
 25 language?

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1 THE WITNESS: No.
 2 ARBITRATOR LYON: And then from there you
 3 went to a computer?
 4 THE WITNESS: Yes, sir, in the kitchen.
 5 ARBITRATOR LYON: Were you there by
 6 yourself?
 7 THE WITNESS: Yes, Allison was next door
 8 in the apartment.
 9 ARBITRATOR LYON: And the computer had
 10 been left on since the year before?
 11 THE WITNESS: No, sir, no, sir. He had
 12 a -- a network in the -- in the house, and typically
 13 we use the kitchen as a place to get Internet access.
 14 The computer was already there. It was my laptop, if
 15 I recall correctly, that was sitting there in the
 16 computer -- I mean, in the kitchen.
 17 ARBITRATOR LYON: And when -- did you
 18 pick the box up?
 19 THE WITNESS: Yes.
 20 ARBITRATOR LYON: But you didn't open it?
 21 THE WITNESS: I didn't open it.
 22 ARBITRATOR LYON: Okay. Mr. Russey, who
 23 is he?
 24 THE WITNESS: He's a -- he's the
 25 landscaper. He's Lance's gardener. And at one time

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1 was a friend of mine.
2 ARBITRATOR LYON: And I didn't -- I want
3 to make sure about this. You say he's a liar?
4 THE WITNESS: Yes, sir.
5 ARBITRATOR LYON: Okay. All during the
6 time that Armstrong knew you he told me -- told you
7 that the stories about Ferrari were not true?
8 THE WITNESS: We didn't have many, if
9 any, in-depth conversation about Michele Ferrari. Any
10 reference to Michele was generally to refute the
11 press's view of Ferrari.
12 ARBITRATOR LYON: Okay.
13 THE WITNESS: That was just a subject I
14 didn't want to touch on, prior to the discovery or
15 after the discovery. It was not something that I
16 wanted to get into.
17 ARBITRATOR LYON: You said since this --
18 since you were terminated, your status in the Austin
19 community has gone down?
20 THE WITNESS: Yes, sir.
21 ARBITRATOR LYON: Have you worked since
22 then?
23 THE WITNESS: Yes, sir.
24 ARBITRATOR LYON: Where do you work now?
25 THE WITNESS: Now I'm working as a

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1 subcontractor bicycle mechanic for the Castle Hill
2 fitness gym and I work part-time for Discovery cycle.
3 ARBITRATOR LYON: For who?
4 THE WITNESS: Discovery Cycle.
5 ARBITRATOR LYON: Who else is not telling
6 the truth about this besides Russey and Mr. Korioth?
7 THE WITNESS: Mr. Korioth is definitely
8 not telling the truth.
9 ARBITRATOR LYON: Okay. And Ms. Dunlap?
10 THE WITNESS: I believe Ms. Dunlap is --
11 is very much mistaken.
12 ARBITRATOR LYON: So she's not telling
13 the truth?
14 THE WITNESS: I wouldn't go so far as to
15 say that. What I -- I don't have anything negative to
16 say about Ms. Dunlap. She and I had very infrequent
17 encounters, very brief conversations. I hardly know
18 her at all. My wife thinks that she had pregnant
19 brain and just remembered something that wasn't
20 actually there.
21 ARBITRATOR LYON: So Russey is not
22 telling the truth, Korioth, Dunlap is mistaken. Who
23 else?
24 THE WITNESS: Well --
25 ARBITRATOR LYON: Not -- besides

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1 Armstrong. I know you're saying that. But you're
2 saying he's lying because of the hunch about the
3 drugs; is that right?
4 THE WITNESS: Who's lying?
5 ARBITRATOR LYON: Mr. Armstrong.
6 THE WITNESS: Mr. Armstrong is denying
7 use of any performance enhancing drugs, yes, he's
8 definitely denying that.
9 ARBITRATOR LYON: And that's based on a
10 hunch of yours?
11 THE WITNESS: That's what I saw up there.
12 ARBITRATOR LYON: A hunch that you had?
13 THE WITNESS: And I'm -- I'm sorry, I'm
14 confused.
15 ARBITRATOR LYON: Your testimony from
16 your deposition was a hunch.
17 THE WITNESS: Right.
18 ARBITRATOR LYON: And that's based on
19 your hunch.
20 THE WITNESS: Yes, oh, that he's -- yes,
21 of course, yeah.
22 ARBITRATOR LYON: Okay. I don't have any
23 more.
24 ARBITRATOR FAULKNER: Oh, great. That
25 takes care of that. Mr. Towns.

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1 MR. TOWNS: Yes, just a few questions,
2 please.
3 RE-DIRECT EXAMINATION
4 BY MR. TOWNS:
5 Q. Did Mr. Armstrong, to your knowledge, have
6 nicknames for people?
7 ARBITRATOR CHERNICK: I'm sorry?
8 MR. HERMAN: None of us could hear you.
9 ARBITRATOR CHERNICK: Again, I didn't
10 hear the question.
11 ARBITRATOR FAULKNER: Ask the question
12 again.
13 MR. HERMAN: But we're all listening to
14 you, that's a good thing.
15 ARBITRATOR FAULKNER: You got our
16 attention.
17 MR. TOWNS: That's got to be a first.
18 MR. TILLOTSON: I heard it.
19 Q. (BY MR. TOWNS) Did Mr. Armstrong sometimes
20 have nicknames for certain people?
21 A. He had nicknames for just about everyone,
22 including me.
23 Q. Who did you know to have the nickname
24 college?
25 A. John Korioth.

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1 Q. And who had the nickname Shumi?
2 A. Dr. Michele Ferrari.
3 Q. Now, I want to look briefly at -- well,
4 first, let me -- well, let's look at -- let's look at
5 Exhibit 131, which is a letter dated December 9, 2004.
6 It's got an Exhibit Number 4 sticker on the bottom.
7 Mr. Herman just gave it to you.
8 MR. GILLESPIE: Here it is.
9 Q. (BY MR. TOWNS) Okay, if we look at page 2 on
10 Exhibit 131. In the -- in the last paragraph on the
11 bottom that begins with, on our second telephone
12 conversation. The second sentence there says, Lance
13 Armstrong called Mike Anderson yesterday and said if
14 you filed suit, it would be World War III, along with
15 other statements that sounded like threats.
16 Did Mr. Armstrong, in fact, tell you that
17 filing suit would lead to World War III.
18 A. Yes.
19 Q. And since the time that you made statements
20 and claims against Mr. Armstrong's interest, have you,
21 in fact, felt like you've been under assault?
22 A. Yes. Yes.
23 Q. Now, during my examination I think that you
24 testified that one of the events that led you to
25 conclude Mr. Armstrong was associated with banned

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1 substances was a conversation on the roadside about
2 Johan Museeuw --
3 A. Museeuw.
4 Q. -- Museeuw. Was that conversation -- was
5 your conclusion that it was a hunch that Mr. Armstrong
6 was associated with banned substances or that he, in
7 fact, had admitted to that?
8 A. That was an admission in my view.
9 Q. Now, looking back at Exhibit 131, one of
10 the -- one of the lines of questioning that Mr. Herman
11 asked you about was the -- the demand for \$500,000 to
12 settle the case. Do you recall that?
13 A. Yes.
14 Q. After that demand was made, you, in fact,
15 lost some of your claims in determinations by the
16 district court, correct?
17 A. Correct.
18 Q. And you don't agree with those, I understand
19 that.
20 A. Correct.
21 Q. But after that happened, how much were you,
22 in fact, paid by Mr. Armstrong?
23 MR. GILLESPIE: Let me just intervene.
24 As I understand it, if the panel orders him to answer
25 that question, then sobeit, but I don't want him doing

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1 it without being required to answer that question.
2 MR. BREEN: Is he asking for the
3 settlement amount; is that what you want to know?
4 MR. TOWNS: Yes.
5 ARBITRATOR FAULKNER: What is the
6 relevance of the amount? We know there's a settlement
7 agreement.
8 MR. HERMAN: That will open up a line of
9 inquiry, if -- I mean, it's fine with me, but we will
10 get into alleged attorney's fees and costs to see how
11 much the settlement was for.
12 MR. BREEN: What Mr. Herman means to say
13 is it's totally irrelevant, but if you do let it in,
14 it obviously opens up a lot of other questions that
15 are likewise irrelevant. So it's just irrelevant.
16 ARBITRATOR FAULKNER: What is the
17 relevance, please?
18 MR. TOWNS: The relevance is related to
19 the line of questions and the -- and the assertion
20 that \$500,000 was extortion money. The effect that
21 after losing some of those claims the amount was paid,
22 I think will demonstrate that the numbers were not
23 significantly different.
24 MR. HERMAN: The panel is well aware of
25 what the considerations in making a settlement,

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1 particularly where you've had four or \$500,000 worth
2 of attorney's fees and defense costs. It doesn't
3 really say -- mean anything one way or the other as
4 far as this panel is concerned.
5 So rather than encourage Mr. Herman to
6 ask a bunch more questions, I --
7 ARBITRATOR FAULKNER: Was that a Freudian
8 slip or was that a threat Mr. Herman?
9 MR. HERMAN: No.
10 MR. TILLOTSON: Third-person reference.
11 ARBITRATOR CHERNICK: Mr. Herman, can we
12 just have an understanding that the case was settled
13 for some sum of money --
14 MR. HERMAN: Sure.
15 ARBITRATOR CHERNICK: -- in accordance
16 with the parties' best judgment about what the case
17 ought to settle for and the specific amount is of no
18 consequence to anybody in the room?
19 MR. TILLOTSON: That -- we -- yes,
20 that -- our only point was that the in numbers,
21 whether it was the demand made by this individual or
22 the amount paid, is irrelevant to the ultimate
23 determination of the merits.
24 ARBITRATOR CHERNICK: But money -- but
25 money was --

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1 ARBITRATOR FAULKNER: Money changed
2 hands.
3 ARBITRATOR CHERNICK: Money was paid by
4 the defendants to the plaintiffs in consideration for
5 and as part of a settlement of that litigation.
6 MR. HERMAN: That's fine.
7 ARBITRATOR CHERNICK: Everybody agree
8 with that?
9 MR. HERMAN: That would be a good way to
10 end the day, wouldn't it?
11 ARBITRATOR FAULKNER: Okay. All right.
12 Do you have any more questions?
13 MR. TOWNS: I do. I'm sorry, I have a
14 couple more questions. One I think is easy.
15 Q. (BY MR. TOWNS) You said you now work for
16 Discovery Cycle and I just want to clarify that it has
17 nothing to do with the Discovery team?
18 A. No, nothing -- absolutely nothing to do with
19 it whatsoever.
20 Q. Okay. And the last question. If you would
21 look at Exhibit 132, which is another document
22 Mr. Herman gave you that has both an Exhibit 3 and an
23 Exhibit 17 sticker on it. The very last PS there
24 says, PS re: 5. I got that covered. I never felt so
25 fresh and strong at the end of the 250K like

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1 yesterday. Too bad to it was BS negative race, watch
2 LBL. What's your understanding the too bad it was BS,
3 negative race, watch LBL? What does that mean?
4 A. I don't know the BS negative race. Anything
5 that he wasn't thrilled about doing he referred to as
6 BS or referred to disparagingly. LBL is
7 Liege-Bastogne-Liege, which is a race.
8 MR. TOWNS: Nothing further.
9 ARBITRATOR FAULKNER: Nothing further.
10 Thank you very much.
11 Mr. Herman?
12 MR. HERMAN: Nothing, Your Honor.
13 ARBITRATOR FAULKNER: Thank you very
14 much.
15 Either panel member.
16 Nothing, all right.
17 Thank you very much, gentlemen. We'll
18 stand in recess until 9 o'clock tomorrow morning.
19 MR. GILLESPIE: May he be excused.
20 ARBITRATOR FAULKNER: Yes, and this
21 witness may be excused?
22 MR. HERMAN: You bet.
23 ARBITRATOR FAULKNER: Thank you very
24 much, sir. You are excused. You may step down, and
25 have a pleasant trip back to Austin.

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1 We stand in recess until 9:00 in the
2 morning.
3 (Proceedings adjourned at 5:32 p.m.)
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2 STATE OF TEXAS)
3 COUNTY OF DALLAS)
4
5 I, Nancy P. Blankenship, Certified Shorthand
6 Reporter, in and for the State of Texas, certify that
7 the foregoing proceedings were reported
8 stenographically by me at the time and place
9 indicated.
10 Given under my hand on this the 31st day of
11 January, 2006.
12
13
14
15
16 Nancy P. Blankenship, Certified
17 Shorthand Reporter No. 7351
18 in and for the State of Texas
19 Dickman Davenport, Inc.
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My commission expires 12-31-06