

IN THE MATTER OF:

LANCE ARMSTRONG AND
TAILWIND SPORTS, INC.

v.

SCA PROMOTIONS, INC.

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BEFORE THE HONORABLE
RICHARD FAULKNER, RICHARD
CHERNICK AND TED LYON,
ARBITRATORS

AFFIDAVIT OF DR. CRAIG NICHOLS

Before me this day personally appeared Dr. Craig Nichols, a person to me well known, and upon his oath stated that the following is true and correct and within his personal knowledge:

1. My name is Dr. Craig Nichols. I am currently Professor of Medicine and Chief of Hematology/Oncology at Oregon Health and Sciences University. I have been a doctor since graduating medical school in 1978 and a cancer and blood specialist (hematologist) since 1985. I received my training in Hematology at University of Miami and Hematology/Oncology training at Indiana University. I joined the faculty there and moved through the academic ranks to professor in 1996. In 1998, I was recruited to be the Chair of Hematology/Oncology at Oregon Health and Sciences University. Indiana University is the foremost center in the world for the research and care of patients with testicular cancer and I developed a substantial experience with this disease there. My research on the subject is well known and, I can say, without contradiction, that my reputation as a clinician and researcher in testicular cancer is worldwide.

CANCER TREATMENT

2. On October 19, 1996 the Lance Armstrong made an appointment with me because he had been diagnosed with testicular cancer. I did not know Lance Armstrong or his background at that

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time. He had been diagnosed in Austin, Texas under the care of Dr. Dudley Youmans. His diagnosis had been established when he began to cough up blood. Investigation identified numerous rounded abnormalities on his chest X-ray that were highly suspicious for metastasis. Examination in Austin revealed a testicular mass. He underwent tumor marker evaluation and was found to have massively elevated testicular cancer tumor markers (beta human chorionic and gonadotropin). He underwent radical orchiectomy (removal of the testis) and was found to have choriocarcinoma of the testis along with a small amount of malignant teratoma. He received an initial cycle of chemotherapy in Austin and, then developed worsening headaches. Evaluation revealed brain metastases. With the rapidly worsening situation, Lance Armstrong sought expert opinions on the management of the disease and was seen by myself on October 19, 1996. I have reviewed the records of that encounter. At that time, I repeated his blood tumor markers, had the pathology of the resected testis reviewed by the testis cancer pathologist at Indiana University and reviewed the available films personally and along with the radiologists and neurosurgeons at Indiana University. I examined Lance Armstrong and found that he had a surgical resection of his testis. I can say without equivocation that this careful review of the data and repeating of the tumor markers confirmed without a shadow of a doubt that Lance Armstrong was suffering from advanced disseminated choriocarcinoma of the testis. He underwent resection of his brain disease at Indiana about one week later and was found to have some viable cancer. I began treating Lance Armstrong soon after with a second round of chemotherapy with a modified regimen on October 28, 1996. I continued to treat Lance Armstrong until December 13, 1996 and then prescribed a course of follow-up testing.

3. I began treating Lance Armstrong with chemotherapy on October 28, 1996. Lance Armstrong underwent chemotherapy given intravenously for five days every three weeks for three additional cycles. He received an aggressive combination of cisplatin, etoposide and

ifosfamide.

4. Following treatment, I saw Lance Armstrong until October 2001. It is vital to monitor a patient once the testicular cancer has been treated to identify recurrence at an early and treatable time. The usual period for following cancer patients is five years. After the five years the chances of the cancer returning are negligible.

5. Unfortunately, chemotherapy has numerous side-effects. It is usual for Erythropoietin (more commonly known as EPO) to be administered to cancer sufferers to counter certain of these side-effects. As a consequence of the chemotherapy, Lance Armstrong became very anemic, developed a low white blood cell count, and significant nausea and vomiting and, as a result, he was treated with a number of drugs including EPO. As well as EPO Lance Armstrong received ondansetron, lorazepam and dexamethasone for nausea and brain swelling and filgrastim for management of low white blood cell counts.

EPO

6. EPO is the most commonly used drug in the treatment of chemotherapy induced anemia. It is essential to minimize the degree of anemia in cancer patients undergoing chemotherapy to avoid blood transfusions and the profound fatigue associated with chemotherapy-induced anemia. At one point, Lance Armstrong developed a hematocrit of 25gm/dl (normal range for males 42-47). For these reasons, Lance Armstrong was administered with EPO. There is nothing irregular or abnormal about the use of EPO in cancer patients and, indeed, it is one of the most common supportive care drugs given in conjunction with chemotherapy.

7. Lance Armstrong responded positively to the chemotherapy and chemotherapy was stopped on December 13, 1996. The use of EPO on Lance Armstrong was therefore stopped in early January, 1997. At no time after this date did I or, to the best of my knowledge, any of my colleagues administer EPO to Lance Armstrong. There would have been no reason to do so.

MEDICAL FILE

8. While I do not, and cannot, waive Lance Armstrong's medical privilege, I would like to point out that I have, as a result of the preparation of this Affidavit, reviewed Lance Armstrong's medical file. I used the notes contained within to refresh my memory about his treatment.

9. Following successful treatment of his cancer in 1996 I continued to check Lance Armstrong's blood levels on a regular basis from January 1997 to October 2001. Initially, he had regular evaluation every several months for the first year, every four months in the second year and twice yearly to 2001.

10. I can confirm that, during that monitoring period, I saw nothing irregular in Lance Armstrong's hemoglobin or hematocrit levels. Lance Armstrong's blood levels remained consistent and did not fluctuate outside the normal range. I can confirm that at the time of the check-ups, and also upon reviewing the material in the file, there is nothing irregular with Lance Armstrong's red blood cell levels throughout. I am a blood specialist and very familiar with the use and effects of EPO. Had Lance Armstrong been using EPO to enhance his cycling performance, I would have likely identified differences in his blood levels. After all, I had treated him and administered EPO during his treatment years when he was not cycling between October 1996 and January 1997 and was very familiar with his blood levels.

11. I wish to point out also that the "performance-enhancing" effects of EPO last for approximately two weeks following administration. Lance Armstrong was administered EPO between October 1996 and January 1997. I understand that Lance Armstrong only returned to professional cycling in February 1998. Therefore, it is undoubtedly the case that the administration of EPO for the treatment of Lance Armstrong's chemotherapy-induced anemia cannot have had any performance-enhancing effects on Lance Armstrong's cycling. In addition, the fact that throughout the frequent check-ups until October 2001, when they ceased, I did not

notice any unusual or irregular blood cell levels in Lance Armstrong's blood, indicates to me that Lance Armstrong was not administering EPO between January 1997 and October 2001.

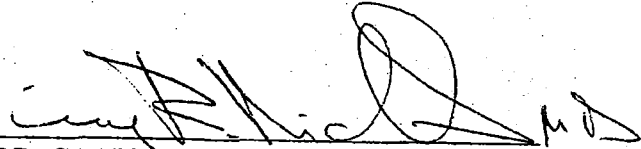
ALLEGED "CONFESSION" OF LANCE ARMSTRONG'S EPO USAGE PRIOR TO CANCER TREATMENT

12. I did not have any knowledge of the background of Lance Armstrong before October 19, 1996. I have been told that it is alleged that Lance Armstrong admitted to his doctors, in front of other non medical personnel, that he had used performance-enhancing drugs prior to being diagnosed with cancer. I have no recollection of being present during any conversation where Lance Armstrong stated this. Though I was not Lance Armstrong's sole physician, I was responsible for the majority of his treatment and would have been present at every large meeting where discussions took place or decisions were made. I have, as mentioned above, had the opportunity to review Lance Armstrong's medical file and can confirm that no entry has been made, neither by me, nor, by any other doctor that saw Lance Armstrong, to the effect that Lance Armstrong had been taking performance-enhancing drugs. I have never seen any evidence, either from myself or any other doctor, that indicates Lance Armstrong admitted, suggested or indicated that he has ever taken performance-enhancing drugs. His medical file from Indiana University Medial Center shows that during his treatment at the Center he was asked questions regarding his medical history over 20 times, which included questions regarding his past medical history and past medications and drugs taken. Nothing in the chart indicates he ever said or responded that he had taken performance-enhancing drugs. The anesthesia and surgical pre-operative notes from October 23, 1996, the day before his brain surgery, are particularly instructive. In that situation, the anesthesiologist and the doctor are visiting with the patient in a very serious situation where accuracy in responses is very important. These doctors disclosed the risks of the brain surgery and anesthesia to Lance, including damage to adjacent tissue, and

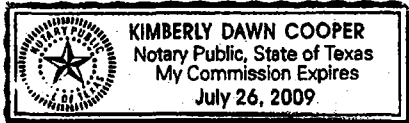
nerological decline such as weakness, numbness, speech and vision problems and they discussed his medical history. Had there been any indication from Armstrong to either of these physicians that he had used performance enhancing drugs, that response would be noted in his records. There is no such note. I and other medical personnel visited with Armstrong about his medical history before his chemotherapy started on October 28, 1996. Lance Armstrong never admitted, suggested or indicated that he has ever taken performance-enhancing drugs. Had this been disclosed to me, I would have recorded it, or been aware of it, as a pertinent aspect of Lance Armstrong's past medical history as I always do, for example, for prior smoking history, alcohol use, illicit drug use and HIV risk factors for each and every patient. Had I been present at any such 'confession,' I would most certainly have vividly recalled the fact. As stated previously, I did not know Lance Armstrong personally or professionally at the time of the first encounter, therefore, there should be no suggestion that I may have somehow purposely omitted to record or recall Lance Armstrong's confession. In any event, I would have recorded such a confession as a matter of form, as indeed, would have my colleagues. None was recorded.

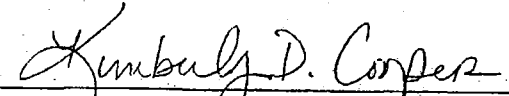
13. Though doctors are under a professional obligation to record all matters regarding a patient's medical history in his/her notes, it would be unusual to ask a professional athlete who has been diagnosed with testicular cancer whether or not he had previously used performance-enhancing drugs. I have treated other athletes with testicular cancer and don't recall ever asking them whether or not they have used performance-enhancing drugs.

14. While on this point, I believe that it is important to respond to allegations that perhaps the use of performance-enhancing drugs such as EPO can cause cancer and indeed may even have caused cancer in Lance Armstrong. There is no established scientific evidence that EPO can cause testicular cancer. From my treatment of Lance Armstrong I am confident that his cancer could not have, and indeed was not, caused by the use of performance-enhancing drugs.


DR. CRAIG NICHOLS

SUBSCRIBED AND SWORN TO before me this 8 day of December, 2005.




NOTARY PUBLIC IN AND FOR THE
STATE OF TEXAS

My Commission Expires: 07/09