

1 IN THE MATTER OF AN ARBITRATION
2 BETWEEN

3 LANCE ARMSTRONG and §
4 TAILWIND SPORTS, INC. §
5 §
6 Claimants, § ARBITRATION BEFORE THE
7 § HONORABLE RICHARD
8 VS. § FAULKNER, RICHARD
9 § CHERNICK AND TED LYON
10 §
11 SCA PROMOTIONS, INC. and §
12 HAMMAN INSURANCE SERVICES, §
13 INC. §
14 §
15 §
16 Respondents. §

17 ARBITRATION
18 TRANSCRIPT OF PROCEEDINGS
19 JANUARY 13, 2006
20 VOLUME 8
21 CONFIDENTIAL

22 On 13th day of January, 2006, at 8:09
23 a.m., the arbitration in the above proceedings came on
24 before Arbitrators Richard Faulkner, Richard Chernick
25 and Ted Lyon, at the offices of Richard Faulkner,
26 12655 North Central Expressway, Suite 810, in the City
27 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:
 3 Mr. Tim Herman
 4 Mr. Sean Breen
 5 HERMAN HOWRY & BREEN
 6 1900 Pearl Street
 7 Austin, Texas 78705-5408
 8
 9 Ms. Lisa Blue
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 14 FOR THE RESPONDENTS:
 15 Mr. Jeffrey M. Tillotson
 16 Mr. Cody L. Towns
 17 LYNN TILLOTSON & PINKER, L.L.P.
 18 Suite 1400
 19 750 North St. Paul Street
 20 Dallas, Texas 75201
 21
 22 ALSO PRESENT:
 23 Ms. Mariela Evora
 24 Mr. Chris Compton
 25 Mr. John Bandy
 Mr. Robert Hamman
 Mr. Michael Ashenden
 Mr. Dorough
 Ms. Brandy Lowrey
 Ms. Lynn G. Bone
 Ms. Marianne Ross
 Dr. Ed Coyle
 Mr. Bill Stapleton
 Mr. Lawrence Temple

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1 I N D E X
 2 WITNESS PAGE
 3 ED COYLE
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 5 RE-DIRECT EXAMINATION BY MR. BREEN 1678
 6 BILL STAPLETON
 7 DIRECT EXAMINATION BY MR. HERMAN 1686
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 9 110 - 7/21/04 e-mail from L. Shiels to B. 1743
 10 Stapleton re: ESPN reporter
 11 122 - Coyle CV 1513
 12 123 - 1/4/05 e-mail - Coffman to Coyle re: 1598
 Chris Compton
 13 124 - Collection of articles 1700
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1 P R O C E E D I N G S
 2 ARBITRATOR FAULKNER: Who's your next
 3 witness?
 4 MR. BREEN: Ed Coyle.
 5 ED COYLE,
 6 having been first duly sworn, testified as follows:
 7 ARBITRATOR FAULKNER: Please proceed.
 8 MS. BLUE: Mr. Faulkner, that would be my
 9 witness, so may I go ahead and proceed?
 10 ARBITRATOR FAULKNER: Yes, please.
 11 MS. BLUE: Would it be all right if I
 12 stood since I'm more comfortable?
 13 ARBITRATOR FAULKNER: Make yourself
 14 comfortable, y'all. This is not federal court.
 15 D I R E C T E X A M I N A T I O N
 16 BY MS. BLUE:
 17 Q. Good morning, Dr. Coyle.
 18 A. Good morning.
 19 Q. Would you introduce yourself to the panel
 20 members?
 21 A. I'm Ed Coyle, a professor at the University
 22 of Texas at Austin and I direct the human performance
 23 laboratory.
 24 Q. When you say you direct the human
 25 laboratory --

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1 A. The human performance laboratory.
 2 Q. What does that mean exactly?
 3 A. Well, my job is to do research to raise grant
 4 money, to publish, to train doctoral students and to
 5 teach undergraduate and graduate students.
 6 Q. For example, so the panel can understand what
 7 you do on a daily basis, tell us a typical day for you
 8 at the University of Texas as a professor.
 9 A. Well, I don't teach at 8:00 a.m. anymore, but
 10 typically coming into the lab around 8:00 a.m.,
 11 setting up experiments. We do studies on people where
 12 we will be putting catheters into their veins and
 13 doing muscle biopsies, so much of my job is, you know,
 14 making sure the medical procedures are done properly.
 15 I supervise my staff and graduate students. We
 16 conduct these research studies on people and, you
 17 know, I'm in my office most of the day. I teach.
 18 That's pretty much my day.
 19 Q. Dr. Coyle, let's just get to the point about
 20 why you're here. Tell the panel what's your
 21 understanding of why you're here and what your role in
 22 this arbitration is.
 23 A. Well, I'm here to --
 24 MS. BLUE: May I approach the witness and
 25 may I walk around?

1 ARBITRATOR FAULKNER: Certainly, you may.
 2 A. I'm here to express my opinion succinctly and
 3 hopefully clearly on three points. One is it's my
 4 opinion that Lance Armstrong has the ability to win
 5 the Tour de France without using performance enhancing
 6 drugs, and I'll be discussing the physiological
 7 evidence that I believe supports that based upon seven
 8 years of data that was collected in my laboratory
 9 during the seven-year period leading up to his first
 10 victory in the 1999 Tour de France.
 11 Q. (BY MS. BLUE) Okay. What's the second
 12 reason you're here, Doctor?
 13 A. Secondly, I'd like to address the quotes from
 14 Greg LeMond published in LA Confidential that
 15 apparently report on a conversation in San Antonio in
 16 2001, because they're just wrong in a lot of places
 17 and there are numerous lies, in my opinion.
 18 Q. Okay.
 19 A. And third, I'd like to discuss the
 20 conversation I had with Mr. Compton in January of 2005
 21 when he called me regarding this case.
 22 Q. All right. Let's start with the first one.
 23 First of all, do you have an opinion -- will you make
 24 sure all of your opinions are within reasonable
 25 scientific certainty?

1 growing up?
 2 A. Yeah, I kind of thought that. Most of my
 3 relatives had done that.
 4 Q. But you ended up going to college where?
 5 A. At Queens College in New York City.
 6 Q. And then what did you do?
 7 A. Then I went to graduate school. Moved to
 8 Muncie, Indiana and studied with Dave Costill who was
 9 the leading expert and still is in pioneering exercise
 10 physiology in the United States. So that was in 1975
 11 through '77. Went to Ball State University; got my
 12 master's, then went on and got my Ph.D. at the
 13 University of Arizona. I believe I'm listing -- my
 14 mentors are important. Got my Ph.D. with Jack
 15 Wilmore. Mentorship is important because it shows
 16 your pedigree and, you know, the -- the important
 17 mentorships and who you're accountable to, in my
 18 opinion, throughout your career.
 19 So I got my Ph.D. with Jack Wilmore at
 20 the University of Arizona. Then after getting my
 21 Ph.D. I went to the university -- went to Washington
 22 University medical school in St. Louis.
 23 Q. Why did you do that?
 24 A. Well, I was a Ph.D. and you need to do
 25 research at the best institution that you can and

1 A. Sure.
 2 Q. Do you have an opinion about whether Lance
 3 Armstrong could have won the tours -- the tours in
 4 question, you know, are 2001 to 2004; we will make all
 5 of them just so we'll have a wide range -- that Lance
 6 could have won the Tour de France without using any
 7 performance enhancing drugs? Do you have an opinion?
 8 A. Yes, I do and I believe he can.
 9 Q. Now, let's stop there. We are on point
 10 number one. But just so the panel can assess your
 11 ability, your background in order to make that
 12 opinion, if it would be all right, let's go ahead and
 13 turn to your CV, because I'd like for the panel to
 14 know a little bit about you. Let's start with where
 15 you were born.
 16 A. Well, I've been in Texas for 23 years, but I
 17 was born in New York City and I went to the -- went to
 18 the City University of New York, got my undergraduate
 19 at Queens College.
 20 Q. Now, you grew up an Irish Catholic boy in the
 21 heart of New York or outside of New York?
 22 A. No, in the heart of New York City in Queens.
 23 Q. What did your dad do?
 24 A. My father was a New York City policeman.
 25 Q. And did you think you'd be a cop or a fireman

1 Washington University medical school was the best.
 2 And it's -- I studied with John Holloszy, who was the
 3 pioneer in exercise biochemistry, and he's -- he won
 4 the sports medicine prize for his discoveries in
 5 exercise biochemistry. By the way, that's like the
 6 Nobel Prize in sports medicine. It brings with it
 7 \$500,000. So he was the second recipient of that.
 8 So I went to study with him in the
 9 Department of Preventive Medicine with the idea of
 10 taking my knowledge of the human body's healthy
 11 responses to exercise and looking to see how they
 12 might improve people in general. I first started
 13 studying men who had heart attacks, who had ischemic
 14 heart disease, went through cardiac rehabilitation.
 15 Really, it doesn't matter whether I'm studying people
 16 whose hearts are sick. I'm looking to see how they
 17 can adapt with exercise. We're studying the elite
 18 athletes like Lance Armstrong. They really represent
 19 just different ends of the same continuum.
 20 Q. Which, by the way, does Lance Armstrong have
 21 a large heart?
 22 A. Yes, he certainly does. There's no doubt
 23 about that.
 24 Q. Doctor, what I want to do, I want to do this
 25 differently than a jury trial, because we've got three

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1 panel members and I think -- I'm trying to figure this
 2 out, but it's over three-quarters of a century of
 3 experience, legal experience, so I don't want to do
 4 this like I would a jury trial. What I want to do is
 5 just go through your resume briefly and do a summary,
 6 but you've got a lot of honors. Pick -- and just very
 7 quickly, what are the top three you're most proud of,
 8 three or four? And just tell the panel so they'll
 9 know a little bit about who you are.
 10 A. Yeah. Probably the first one listed there is
 11 the most recent and that I've been selected as the
 12 citation award winner for the American College of
 13 Sports Medicine, which is the premier sports medicine
 14 organization in the world. It has about 20,000
 15 members, and each year they select about four to
 16 receive a citation award. One person gets an
 17 honorable award. So I'm receiving the citation award
 18 this year. I -- probably fourth down. I was the
 19 keynote speaker.
 20 Q. Keynote speaker, that means you're the one
 21 they focus on the most?
 22 A. Yes, before the Sydney Olympics in '99 they
 23 had a scientific congress where hundreds of
 24 scientists, thousands around the world attended. I
 25 gave the keynote address, top lecture in physiology,

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1 another lecture in physics of sports. I was honored
 2 by that.
 3 I guess number three, from the University
 4 of Texas I received the distinguished faculty award in
 5 2002 for the college of education.
 6 Q. Okay. Which by the way, if the World Press,
 7 American newspapers prints -- in the past when the
 8 press wanted to know how did Lance Armstrong win, his
 9 physiology, are you the man that was appearing in all
 10 the newspapers, or a lot of them?
 11 A. A lot of them, yeah.
 12 Q. In the New York Times?
 13 A. Yes.
 14 Q. What else? Washington Post?
 15 A. Washington Post, Chicago Tribune, Miami
 16 Herald. I mean, it's listed in my CV and on the web
 17 page, not this one.
 18 Q. A lot of them?
 19 A. Many.
 20 Q. Been on CNN with Doctor --
 21 A. Sanji Gupta.
 22 Q. Okay. That's a good show. And the issue,
 23 when the World Press wants to know, gee, how did Lance
 24 do it, are you the one they ask?
 25 A. They have.

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1 Q. Okay. Your resume is how many pages?
 2 A. 24.
 3 Q. How many -- in general, how many articles,
 4 book chapters, have you written in your career?
 5 A. Counting peer reviewed articles and peer
 6 reviewed book chapters --
 7 Q. And peer review means somebody --
 8 A. Well, somebody -- scientists review it and
 9 they decide whether it's good enough or not and
 10 suggest changes, if necessary, or reject it. 140.
 11 Q. And so what I want to do --
 12 MS. BLUE: Lynn, if you'll just start
 13 putting up pages.
 14 Q. (BY MS. BLUE) And, Doctor, just tell us what
 15 are we looking at, what kinds of articles? Sort of
 16 what I'm doing for the panel is --
 17 A. If you go back one, that's the professional
 18 societies I belong to, which, again, is important,
 19 because that tells you the circles that you travel in,
 20 and I've been a member and officer in some of these
 21 societies.
 22 Q. You are active in professional societies,
 23 true?
 24 A. Yes.
 25 Q. Okay. Anything else you want to say about

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1 that?
 2 A. No.
 3 Q. Let's start with these, all of these
 4 articles.
 5 MS. BLUE: And can the panel members see?
 6 ARBITRATOR FAULKNER: If you can blow
 7 them up a little bit more.
 8 Q. (BY MS. BLUE) Now, which ones do you want
 9 blown up that give a good gist of -- what you do for
 10 work? What do you look at, what do you study?
 11 A. Well, you can see a mixture. I mean, just
 12 look at the -- the two things you look at here, you
 13 can look at what the journal is, these are the top
 14 journals in physiology. In physiology in general, not
 15 just exercise or applied physiology. And Applied
 16 Physiology is the top journal of applied physiology,
 17 that's one of the most recent -- one of the more
 18 recent papers on Armstrong. This is number 86 of the
 19 peer reviewed original data scientific articles.
 20 Q. And we're going to -- after we do this, we
 21 are going to put number 86 up there since it's very
 22 relevant to this arbitration --
 23 A. Right.
 24 Q. -- and just talk for a few minutes about
 25 that. But before you go on, let me go ahead and offer

1 into evidence Exhibit 122 and ask Sean if it would be
2 all right to pass these out, and I have one for
3 Respondents' counsel.
4 MR. TILLOTSON: Thank you.
5 Q. (BY MS. BLUE) All right. Go ahead.
6 A. In this study we fed endurance athletes
7 limited amounts of fat and carbohydrates at one meal.
8 We showed that when you eat a very low fat diet the
9 amount of fat inside your muscle fibers goes down and
10 you don't burn much fat during exercise. And it gets
11 you into the whole idea of what's the healthiest diet
12 to eat --
13 Q. Tell us, please.
14 A. -- especially if you're active.
15 Q. What's the best diet?
16 A. Well, the best diet is one where you're
17 expending as many calories as you're eating so you
18 don't store calories or gain fat. So it really
19 depends. The best diet -- it all depends on what are
20 your goals to say what's best. So we do that where we
21 are studying -- essentially we're just studying how
22 when we feed people different things, different fats
23 and carbohydrates, how their muscles adapt on a
24 biochemical level and how that might have healthy
25 benefits that would allow them to then not accumulate

1 body fat, either in the muscle or in fat cells
2 throughout their body and, therefore, not have a
3 tendency to become obese and diabetes.
4 So our whole approach is to study healthy
5 people and find out what really is healthy. You can't
6 really decide what disease is until you first
7 understand what the appropriate healthy response would
8 be, and that's why we often study endurance athletes
9 because they represent the extreme to which the body
10 can adapt in a positive way. We can take that back
11 and apply it to people who have heart disease or who
12 are obese or who eat very large amounts of fat or who
13 eat the same amount of fat as athletes and don't
14 exercise and what happens to them. So, therefore, you
15 factor out what the importance of exercise is.
16 MS. BLUE: Lynn, if you could just start
17 rolling through the pages.
18 Q. (BY MS. BLUE) Because out of the hundred or
19 more articles, I see nutrition during and after
20 exercise, carbohydrate feeding, athletic performance.
21 As Lynn keeps putting up these articles, in a
22 nutshell, tell the panel what's your specialty. What
23 is the gist of the articles that you -- that you've
24 written?
25 A. Well, my specialty is the physiology of

1 endurance performance. You know, what limits a
2 person's ability to perform prolonged exercise, be it
3 from the parts of their body, the physiology, and be
4 it from how they train, how they eat, the entire --
5 the entire composite of -- of healthy biology.
6 Q. Okay. By the way, you're married?
7 A. Yes.
8 Q. Two kids?
9 A. Yes.
10 Q. Are the two kids into sports-related
11 activities as well?
12 A. Well, my daughter -- horses aren't very
13 sporty. She was an equestrian rider, which that takes
14 some athletic skill. And my son was a competitive
15 diver at the University of Hawaii, platform diving,
16 ten-meter flipping and that stuff.
17 Q. And your wife, she does something
18 interesting. I know she's working on some
19 renovations, but she does a non-profit or --
20 A. Yes, she's a nutritionist and she started a
21 non-profit called Keep it Healthy.org aimed at
22 minorities in a certain zip code in Austin. And she
23 speaks Spanish as far as providing health education
24 and diet and just some resources for -- to serve
25 people.

1 Q. Okay.
2 A. And she was a professional tennis player.
3 Q. You've gotten into tennis?
4 A. Yes.
5 Q. Let's continue with your resume. And now
6 that the panel members have a copy of your 20-plus
7 page resume, you've talked about your articles, you've
8 spoken all over the United States, true?
9 A. The world, yes.
10 Q. Okay, all over the world. Is there anything
11 that you think the panel should know in conclusion
12 about your resume that we haven't talked about that's
13 relevant to the Lance Armstrong arbitration and why
14 you're qualified to testify on number one, and I'll
15 call that the cheating point. Can Lance win without
16 cheating? Anything else in your resume you want to
17 talk about?
18 A. Not in particular. I think in general, you
19 know, I've had an interest for 30 years now in factors
20 that limit endurance performance. So this has been a
21 passion of mine. Although most of my funding comes
22 from health, you know, this is -- this is very
23 important to me.
24 Q. I notice that interesting presentation. I
25 just saw this. Some of these are in French, La

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1 restitution de Carbohidratos durante -- oh, no.
2 A. Well, you picked up -- that was in Argentina.
3 Q. Oh, okay.
4 A. So these are the ones I haven't had a chance
5 to translate. So I took -- these are right out of the
6 Spanish translation.
7 Q. Okay. And the French one above that?
8 A. Yes. So that was just a few months ago. If
9 you go back, you know, you'll see I give many
10 international lectures.
11 ARBITRATOR LYON: Let me ask you a
12 question.
13 MS. BLUE: Please.
14 ARBITRATOR LYON: Do you have anything to
15 do with designing the diet for these endurance
16 athletes?
17 THE WITNESS: Not the teams. Some of my
18 former students have gotten into that business, even
19 working with some of the professional teams and
20 traveling and doing the diets, but I don't do that.
21 But they often take our recommendations. We were --
22 my laboratory was the laboratory that came up with
23 carbohydrate feeding during exercise. Even before it
24 was popular, we told athletes --
25 MS. BLUE: Can you keep your voice up?

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1 THE WITNESS: We told athletes how many
2 grams of carbohydrates they should be ingesting each
3 hour of exercise and what's the best type of
4 carbohydrate. So we have been providing that kind of
5 scientific backdrop to them which they then apply
6 however they feel is best.
7 ARBITRATOR LYON: For instance, I really
8 wanted to ask this of Mr. Armstrong yesterday, but I
9 didn't want to keep him in here any longer. What kind
10 of diet do those guys go -- what do they eat when
11 they're doing what they do during the Tour de France?
12 THE WITNESS: They eat a huge amount of
13 calories, about 8,000 calories a day, and, you know,
14 that includes taking a very large amount of
15 carbohydrates. So they eat on the bicycle a lot.
16 During the first three or four hours of that six-hour
17 race they're eating. It's like a rolling meal. They
18 have to meet the caloric needs. And then afterwards
19 they know they need to eat so many grams of
20 carbohydrate every hour. So there's a big bowl of
21 pasta, bread, jam, so much protein along with it. And
22 actually it's been the University of Texas, our
23 research that has shown how many grams of carbohydrate
24 and the benefit of getting protein to the carbohydrate
25 to speed recovery of muscle glycogen. And that's the

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1 related to insulin responses. We've worked out the --
2 not only what the best amounts and types of foods are,
3 but what the mechanisms by which that happens.
4 That's -- we are in collaboration with John Ivy at the
5 University of Texas.
6 So they know, the athletes know exactly
7 how much they have to eat, and if they don't replenish
8 their gas tank essentially, fill up, they're going to
9 have a hard day the next day.
10 ARBITRATOR LYON: But what do they eat?
11 I mean, what -- I mean, do they just -- they just --
12 you just tell them, okay, eat carbohydrates, so much
13 protein and they figure out what they want?
14 THE WITNESS: Yes, but we give them
15 choices. I mean, they're -- they love pasta, of
16 course. It's high in carbohydrates. Pasta, breads
17 and jams, bananas, you know, those are the mainstays.
18 Probably 80 percent of their carbohydrate comes in
19 that form. While they're exercising they'll be
20 drinking sport drinks, you know, which are essentially
21 just water and sugar, or they'll put some starches,
22 maltodextrins with this. There's nothing secret or
23 magical about any of the food that they take. They're
24 really just convenient and good tasting and available
25 when they need them.

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1 ARBITRATOR LYON: Okay.
2 Q. (BY MS. BLUE) You said their diet is about
3 8,000 calories. What's a normal diet? Like for a
4 male like in this age range over here, how much would
5 these gentlemen --
6 A. Between two and 3,000 calories a day.
7 Q. So it's like more than twice?
8 A. Yes, always. You can imagine when you're
9 cycling for six hours a day how many calories -- I
10 mean...
11 Q. Dr. Coyle, how many students -- or I'm sorry,
12 how many athletes have come through your laboratory at
13 the University of Texas since you -- well, you've been
14 a doctor since late '70s and you've been with UT --
15 A. Yes, I've been a Ph.D. since '79 and at UT
16 since 1982, so --
17 Q. So over 20 years?
18 A. Yes.
19 Q. At UT?
20 A. At UT 23 years.
21 Q. You're a full professor?
22 A. Yes.
23 Q. How many athletes have you studied, first of
24 all, in general?
25 A. Oh.

1 Q. At your lab.
2 A. In my laboratory at Texas, well over a
3 thousand.
4 Q. How about cyclists?
5 A. The majority have been cyclists, so I would
6 say we probably studied 1,500 to 2,000 athletes in
7 general and over 1,000 have been bicyclists,
8 competitive bicyclists.
9 Q. Now, we are still in point number one. Let's
10 talk about Lance Armstrong. Did you study Lance
11 Armstrong?
12 A. Yes.
13 Q. Tell the panel about how you met Lance and
14 your studies between 1991 and 1999.
15 MS. BLUE: And while you're doing that,
16 Lynn, if you could put up --
17 Q. (BY MS. BLUE) You wrote an actual article on
18 Lance, did you not?
19 A. Yes.
20 Q. And this time I'll go ahead and offer --
21 well, it's already part of an exhibit, Respondents'
22 Exhibit 33, if the panel would like another copy.
23 ARBITRATOR FAULKNER: Are you going to
24 offer 122?
25 MS. BLUE: Yes.

1 ARBITRATOR FAULKNER: Are there any
2 objections to Dr. Coyle's resume?
3 MR. TILLOTSON: No.
4 ARBITRATOR FAULKNER: It's admitted.
5 MS. BLUE: I have Respondents' Exhibit 33
6 up on the screen. Would the panel like another copy
7 or would you -- you can refer to it.
8 ARBITRATOR FAULKNER: I can refer to the
9 one we have.
10 MS. BLUE: That would be Respondents'
11 Exhibit 33.
12 Q. (BY MS. BLUE) While they're looking for
13 that, tell the members of the panel, how did you meet
14 Lance and what did you do with him from '91 until
15 '99 --
16 A. Well, Lance --
17 Q. -- which is what the article was based on?
18 A. Yeah. Lance came into my laboratory in 1991.
19 I remember I took a long history of testing endurance
20 bicyclists and using them in my studies of
21 carbohydrate feeding through dehydration. And, in
22 fact, we had a study -- the U.S. national team in
23 1987, many of the former amateurs became professionals
24 right before Lance's era. So when Lance started
25 cycling and he moved to Austin, some of his

1 colleagues -- you know, some of the other bicyclists
2 said you need to come in and see Dr. Coyle in his lab.
3 And so one of my former students, Chris
4 Murphy, actually, who was a kinesiology student, he
5 was ranked fourth in the U.S., I think he finished
6 fourth in the Olympic trials in 1982, just missed
7 making the Olympic team, but he went to medical school
8 and is now a practicing physician in Calcutta. Chris
9 brought Lance in. They were friends, and another
10 bicyclist coming in, a young kid, a lot of
11 potential.
12 Q. Young kid means what, how old?
13 A. He was 20 at the time and, you know, was full
14 of energy, and he was a triathlete who decided to
15 become a bicyclist and everybody was curious, you
16 know, how good he could be and all. So we have seen a
17 lot of young kids come through.
18 And so Lance came in and, you know, I
19 spoke with him and I think after the first visit,
20 after getting to know each other, he came back in and
21 we started doing some of the preliminary testing of
22 which you see there. My interest had been in -- you
23 know, we had made many of the observations of here's a
24 cyclist that's already very good and let's describe
25 him as he's already very good. We tested the former

1 U.S. professional champion, Norm Alvis, and ten other
2 top American cyclists. My interest after that point
3 in time was finding some young cyclists who were just
4 beginning their career and studying them over a long
5 period of time to see -- really to see what happens,
6 not how -- what makes you a good cyclist when you've
7 already won the very top races, but what allows
8 somebody to develop their potential to mature from
9 being a 20-year-old cyclist into a 28-year-old cyclist
10 or 30-year-old cyclist. That's about the age when
11 most endurance athletes reach their peak performance.
12 Q. When they're 28?
13 A. In their late 20s, early 30s.
14 Q. So tell us exactly, what did you do with
15 Lance from -- what was it, '91 to '99?
16 A. We published --
17 Q. Is that right? Is that how many years you
18 were with Lance?
19 A. Yes, that's right.
20 Q. And just tell us very briefly, because I know
21 it's in a PowerPoint. When you saw Lance, how many
22 different occasions did you see him? How many times?
23 A. We tested him five different times.
24 Q. And when you saw him the five different
25 times, would you spend a couple of hours with him?

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1 A. Yes, between one and three hours.
2 Q. And did you do tests on him?
3 A. Yes.
4 Q. And you're going to talk about those tests in
5 your PowerPoint?
6 A. Yes.
7 Q. And were those tests able to let you have a
8 good basis here today to tell the arbitration panel
9 how Lance could win without drugs?
10 A. Yes, I think so.
11 Q. Okay. If you could, let's go to the second
12 page. By the way, this is the article you wrote on
13 Lance Armstrong?
14 A. Correct.
15 Q. And on the second page you can see, if you
16 could blow this up, because -- does this give a sense
17 of kind of what was Lance -- Lance was capable of. We
18 all know that he was the official winner of the Tour
19 from -- well, seven times, but these are the kind of
20 things that Lance won even before the Tour, correct?
21 A. Correct.
22 Q. Does this kind of give a time line of some of
23 his wins? And then I see in there that you have that
24 he got cancer. And it's a good way that the panel can
25 just see a time line of his wins and his cancer,

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1 correct?
2 A. Correct.
3 Q. You know, I want to stop for just a second.
4 Maybe this is the part that interests me so much, but
5 I want to talk about Lance Armstrong's personality.
6 You met him when he was a kid, when he was 20?
7 A. Yes.
8 Q. What was his personality like?
9 A. It's not unlike it is today. Lance is
10 usually himself. I mean, he came in the lab and what
11 I usually tell the athletes coming in, kids
12 especially, is we know you're already good, we are
13 going to test you, but we want to learn from you. We
14 don't -- we are not here to tell you you're not good.
15 You're already winning races and all. We want to
16 learn from you. It's a very intimidating process for
17 these kids to be coming in. So I always try and
18 reassure them. Lance came in very confident. He came
19 in already saying I know I'm good. It doesn't matter
20 what you tell me, I know I'm good. So he kind of made
21 it easy because there wasn't any time to go, I know
22 that. We are on the same page. You're good and we
23 are going to learn a lot from you, and let's just have
24 a good time. So that's always been the give and take.
25 Q. As a kid was Lance brash?

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1 A. Yes.
2 Q. Confident?
3 A. Yes.
4 Q. Direct?
5 A. Yes.
6 Q. Sort of in your face, kind of no holds
7 barred?
8 A. Not really. I mean, he's that way -- in my
9 experience, he's that way in public, but when we would
10 sit down and go over the results, he listened,
11 listened very carefully, was always very respectful,
12 so...
13 Q. Dr. Coyle, you have a great Lance Armstrong
14 story, very short, but it just sort of gives a sense
15 of who he is. Do you remember when a publisher for
16 Cycle magazine came in and talked to Lance?
17 A. Yes, the bicycling magazine.
18 Q. When Lance was just a kid and kind of getting
19 his start?
20 A. Yes.
21 Q. And do you remember when the public -- or the
22 journalist asked Lance do you want to be the next Greg
23 LeMond?
24 A. Yes.
25 Q. What did Lance say?

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1 A. Well, I want to be the first Lance Armstrong.
2 Q. Okay. All right. In one or two minutes,
3 because we are about to go to your PowerPoint so we
4 can conclude with point one, why -- if you'll go back
5 to the title page, which by the way, do you know
6 anybody else in the world that has been able to have
7 these studies done on Lance and published an article
8 on Lance Armstrong and the physiology behind Lance
9 Armstrong besides you?
10 A. No.
11 Q. Okay. In a nutshell, before we go to your
12 PowerPoint, why does this article -- why is this
13 article relevant to tell the panel that Lance can win
14 without cheating? Why does this article -- the data
15 in this article show that?
16 A. Well, I mean, simply it will document that
17 the maturation process of a champion, simply this
18 boils down to somebody who very young had a lot of
19 raw, natural talent and I'm talking about
20 physiological talent here, which is not psychological,
21 but a huge cardiovascular system or ability to produce
22 energy aerobically, just raw power. And I think he
23 kind of reflects in some aspects of life, that is as
24 he got older and matured he became more efficient and
25 just learned how to more wisely apply that power to

1 the purpose which he directed to winning the Tour de
2 France, so just a lot of raw energy as a kid and then
3 he became more efficient, his muscles actually became
4 more efficient at transmitting that raw energy to
5 powering the bicycle and simply he improved his power
6 to body weight ratio a remarkable 18 percent. He --

7 Q. Well, let's -- hold on. Say that one more
8 time, because I think that's important.

9 A. Well, over the seven-year period that we
10 tested him, his formative years from age 21 through
11 29, he -- he showed a remarkable improvement in how
12 much power he can generate for every kilogram of body
13 weight. He went up 18 percent and that's because he
14 both improved his raw power ability by eight percent
15 because of muscle adaptations which we ascribe to just
16 the pure result of hard training.

17 Q. By the way --

18 A. Okay.

19 Q. Okay.

20 A. And then he lost body weight and the two
21 combined equally to cause this 18 percent increase in
22 power and therefore speed with which he could ride up
23 the mountains in France.

24 Q. I'm kind of stuck on this number, 18 percent,
25 because when you and I talked we were talking about

1 training, we are documenting that his muscles adapted
2 to seven years of hard training and improved their
3 power output by eight percent. It has nothing to do
4 with EPO. That's simply hard training, changing the
5 biochemistry, in our opinion, of the muscle. It is
6 changing the biochemistry of the muscle. In our
7 opinion, it's because of the change in the types of
8 muscle fibers from fast twitch to slow.

9 Whether that's the case or not is
10 irrelevant to the fact that we are certain that
11 Armstrong improved his efficiency and therefore gained
12 eight percent more power. You combine that with
13 reducing his body weight about the same amount, eight
14 percent, and therefore improving the ratio, power per
15 kilogram by 18 percent. The simple point is that you
16 improve that much, you can win. You can win. And it
17 just places these other things like EPO into some --
18 some quantitative perspective, some numbers to compare
19 with.

20 Q. Okay. Doctor, moving right along, what I
21 would like to do next is ask you if you prepared a
22 PowerPoint that gives further basis and confirmation
23 to our number one point, Lance can win without
24 cheating? Did you do that?

25 A. Yes, I did.

1 EPO and what percentage that could increase your
2 performance level. What's that number?

3 A. The extent to which EPO can raise your
4 maximum oxygen uptake and directly affect your power
5 output would be in the range of five to six percent.

6 Q. Why is that important in this case that Lance
7 can get an improvement of 18 percent and EPO can only
8 do five or six percent?

9 A. Well, I think it just puts in perspective --
10 people think about drugs and that a super human can
11 take an average person this amount. So we have to
12 think about this quantitatively as to what are the
13 extents to which EPO or blood boosting in endurance
14 athletes, already good endurance athletes -- by the
15 way, I'm quoting studies that were done on
16 well-trained endurance athletes with VO2 maxes in the
17 range that Armstrong has. Sometimes other cyclists,
18 you know, would raise their VO2 max and, therefore,
19 power output, and I'm talking about in the range of
20 five to six percent, so certainly there's no doubt
21 that EPO has that amount of influence.

22 So you need to put that into perspective,
23 what are some other percent improvements that can be
24 accomplished. And we're saying that Armstrong, just
25 independent of anything else, just because of hard

1 Q. And being mindful that Dr. Kearney was here
2 yesterday, because my biggest fear is I don't want to
3 bore anybody or have things be redundant because then
4 people will get, you know --

5 A. I like to keep this brief and just hit the
6 high points.

7 Q. Okay. But being mindful that Dr. Kearney was
8 here, why don't you give us your perspective.

9 A. Okay.

10 Q. And if it would be all right with the panel,
11 I would like for you to go ahead and tell us why the
12 slides in the PowerPoint give basis to your number one
13 point that Lance wins without cheating.

14 A. May I stand to do this?

15 ARBITRATOR FAULKNER: Yes, please.

16 A. Can we switch over to my computer? And
17 again, Dr. Kearney did an excellent job yesterday and
18 I don't feel I need to repeat much of what he's
19 introduced here.

20 Q. Do I need to --

21 ARBITRATOR FAULKNER: Does defense
22 counsel have a copy of this or have they seen any of
23 this?

24 MS. BLUE: Yes.

25 ARBITRATOR FAULKNER: Okay. Just wanted

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1 to make sure.
 2 MS. BLUE: Are we offering PowerPoint
 3 presentations into evidence?
 4 ARBITRATOR FAULKNER: Sometimes. It's up
 5 to y'all.
 6 ARBITRATOR CHERNICK: We have received
 7 copies of all of them. If they're demonstratives,
 8 they're really not in evidence, but they're convenient
 9 to have to be able to make notes on as we watch the
 10 presentation.
 11 MS. BLUE: I'd like permission to go
 12 ahead and offer the PowerPoint afterwards. I have a
 13 small problem and that is some of the PowerPoint data
 14 just didn't print, so if you'll allow me to do that a
 15 little bit later --
 16 ARBITRATOR FAULKNER: You can do that
 17 later because we are fairly sure we will be seeing
 18 y'all on Monday.
 19 MS. BLUE: All right. Thank you, Mr.
 20 Faulkner.
 21 This is a trial lawyer's nightmare.
 22 ARBITRATOR FAULKNER: Do you need to take
 23 a short break while you get that organized?
 24 MS. BLUE: If you need to, Lynn, can you
 25 run it off of yours?

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1 DR. COYLE: It worked before.
 2 MS. BLUE: You tried it out and it worked
 3 before?
 4 MR. BREEN: A break would be good.
 5 ARBITRATOR FAULKNER: Y'all, we will take
 6 about a ten-minute break right now.
 7 (Recess 8:46 to 8:58 a.m.)
 8 Q. (BY MS. BLUE) Does this PowerPoint form part
 9 of the basis of your opinion within reasonable
 10 scientific certainty as to why Lance wouldn't have to
 11 use any kind of drugs to win?
 12 A. Yes.
 13 Q. And can you do this PowerPoint in about 15
 14 minutes?
 15 A. I will try.
 16 Q. Okay. What is this? What are we looking at?
 17 A. Okay, we are looking at -- this essentially
 18 is a summary of the research article and it has some
 19 other information regarding how the measurements were
 20 made. To mention, I direct the human performance
 21 laboratory and --
 22 Q. Is this it?
 23 A. These are pictures from it, yes, and we study
 24 endurance athletes. You see here males and females,
 25 either, running on a treadmill. We like bicyclists

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1 because they can exercise for hours one day and come
 2 back and they'll do it the next day as long as you
 3 feed them, and that includes taking muscle biopsies,
 4 samples of their quadriceps muscle, a little minor
 5 surgery, getting a plug of muscle that we can measure
 6 the fuel stores, the biochemistry in that. And we
 7 also use stable isotopes, carbon 13 non-invasive
 8 techniques, because it more fully studied metabolism
 9 for health purposes.
 10 And what I'm discussing here applies not
 11 only to bicycling, but to all types of endurance
 12 sports that last from several minutes up to several
 13 hours, and Tour de France, of course, is the extreme
 14 of endurance sports.
 15 And I always like to start discussing the
 16 physiology of the human body by using our car as an
 17 analogy, because we work a lot with the cars and
 18 mechanics teach us a lot. And the basic points are
 19 that we know from the car, which is an instrument that
 20 produces power, that you have an engine and the engine
 21 burns gasoline, oxygen is consumed, gasoline is
 22 combusted and raw power is produced. Well, that's
 23 like the raw air aerobic power or VO2 max that we will
 24 be talking about.
 25 Q. And what is VO2 max, like in two seconds?

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1 A. It's the maximum amount of oxygen that a
 2 person's body can consume in one minute. So it
 3 represents, you know, what's the amount of raw energy,
 4 raw aerobic energy that this person is capable of
 5 producing. And that is limited by the cardiovascular
 6 system or, for the most part, how much blood and
 7 oxygen the cardiovascular system, the heart, can pump
 8 to the exercising muscle. It's that simple. And it's
 9 analogous to how much gasoline and air can be burned
 10 inside the engine of a car. So it's just raw chemical
 11 energy conversion.
 12 The next part is how well can you
 13 transmit that raw explosive power. In your car it's
 14 just explosions happening in the pistons. How well
 15 can you transmit that raw power to power in the wheels
 16 and we -- engines, of course, are rated by horsepower
 17 and cyclists use watts, you know. By the way, one
 18 horsepower is equal to 746 watts, okay.
 19 Q. In a car or --
 20 A. Well, one horsepower -- you know, horsepower,
 21 before they had cars, they would try and quantify how
 22 much work, power, a vehicle or tool could produce and
 23 the tools were horses.
 24 Q. What's a watt? What does that mean in lay
 25 terms?

1 A. A watt is the amount of energy, it's a joule
2 per second is a watt.
3 Q. Joule, is that a car term?
4 A. No, joule is a physical term. It's the name
5 of a scientist.
6 Q. Okay.
7 MR. BREEN: It means something different
8 to Ms. Blue.
9 THE WITNESS: Gotcha. You're quicker
10 than me.
11 A. So my point is horsepower, watts, optimum
12 consumption, they are all units of energy production.
13 I like to use just one, not change. So 500 watts is
14 about two-thirds of a horsepower.
15 Q. (BY MS. BLUE) Okay. Next.
16 A. So basically I would like to just kind of
17 take you to the physiology and the analogies are the
18 same.
19 Q. Why is it important to know this, for the
20 panel to know that Lance didn't need to cheat? I'm
21 trying to figure out what the significance -- why do
22 we need to know this?
23 A. Well, we will see that -- that Lance started
24 as a young kid with a raw engine that was able to
25 produce a lot of aerobic power. That didn't change

1 over the years. Over the years what he improved
2 remarkably was his muscle efficiency which allowed him
3 to transmit more of that raw power to the bicycle and
4 going faster along with the body weight, and so he
5 improved 18 percent. There's a lot of focus on how
6 much you can improve by -- the engine, by maximum
7 oxygen uptake.
8 Can we look under the hood here? Go
9 back -- go forward. And so if we go -- if we look
10 under the hood in the car, and if we advance this, we
11 can see that under the hood for this -- you know, for
12 this raw aerobic power we have the measurement of
13 maximal oxygen uptake here and we can see that's
14 determined by a number of components just like the
15 car's power is determined by the carburetor and the --
16 you know, and the fuel injecting system and all that.
17 We break the body down into the parts
18 that are important. We have heard about to be able to
19 consume a lot of oxygen at your maximum or produce raw
20 aerobic power, you need to have a big heart, big heart
21 that can pump a lot of blood.
22 Q. Lance has that?
23 A. Has that. He had that when he was young,
24 probably born with it, had a genetic head start. He
25 nurtured that God-given ability with the years of hard

1 training, but by the time he was 19 or probably even
2 younger, he had already developed his -- his heart and
3 his stroke volume and his VO2 max to very high levels.
4 And that's typically what we see with champion
5 endurance athletes. With only a few years of very
6 intense training, they develop the raw aerobic energy.
7 That doesn't change very much. What does improve, we
8 are seeing with -- from year five through ten or later
9 is improving the transmission, and that is improving
10 gross mechanical efficiency.
11 And, you know, that's allowed Lance to
12 improve his power output and therefore speed when
13 riding by eight percent, and that's the ultimate.
14 Q. Okay. Next slide. What does this show? Why
15 is this important to the issue on whether Lance had to
16 cheat?
17 A. Okay. This just shows when we're looking at
18 different body components that the cardiovascular
19 system -- is your computer running slow -- you know,
20 we heard yesterday that there are a lot of components,
21 including having a very big heart, which, you know, I
22 like to say Lance is -- one analogy is Lance is a
23 person who -- he stands five foot ten. He probably --
24 if he never trained, he had the heart in his chest the
25 size of a person who's about six foot six, okay. I

1 mean, just genetically he was probably born with a
2 large heart.
3 By the way, he did have an endocardiogram
4 done here in Dallas by Ken Cooper at the Cooper
5 Clinic -- I think he was a young endurance athlete --
6 confirming that his heart size, his left ventricular
7 chamber was big, not unhealthily big, but close to
8 six -- six centimeters in diameter. So it's, you
9 know, a big heart, probably partially genetic, but
10 years of intense training raised his heart size and
11 certainly raised his stroke volume to very high levels
12 and that's an important component in having a very
13 high VO2 max.
14 So a simple way of saying it without
15 going into the left ventricular dimensions is he's
16 probably, you know, a five foot ten individual who
17 naturally has a heart the size of a person who's six
18 foot six and he grew it to a heart the size of a
19 person who's seven foot six with --
20 Q. How did he do that?
21 A. -- intense training.
22 Q. Oh.
23 A. Well, intense training. Doing interval
24 training is especially very important. Having your
25 heart beat at its maximum and going for a few minutes

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1 until you fatigue it. The heart is pliable, it's a
 2 muscle, it does stretch out and become bigger and
 3 stronger. So it's always a combination.
 4 My point is it's always a combination of
 5 nature, starting out with a genetic head start, but
 6 that by itself isn't enough for endurance athletics.
 7 You then have to train that, nurture that for years.
 8 So it's a combination of the two.
 9 Q. What does that slide show?
 10 A. Well, then we studied the biochemistry of the
 11 muscle. We chose a subject who we obtained a piece of
 12 muscle from their thigh muscle, the vastus lateralis,
 13 and in that we measured the biochemistry of the
 14 mitochondria.
 15 This is a place where oxygen is consumed
 16 inside the cell as Dr. Kearney mentioned yesterday.
 17 And we know that endurance athletes triple the number
 18 of mitochondria they have with intense training. They
 19 also develop more blood vessels around the muscles.
 20 They store more fuel, the glycogen granules,
 21 carbohydrate. This is lipid, the muscle triglyceride
 22 that we've been studying because trained athletes can
 23 burn more fat. They're very impressive. That it has
 24 also health implications.
 25 Q. Okay. Doctor, just very quickly, because I

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1 really want to move the PowerPoint along. Back when
 2 you were studying Lance over the seven years, eight?
 3 I'm sorry, I keep forgetting. How many years?
 4 A. Yes, seven years he reported.
 5 Q. Was it ethical? Were you able to take a
 6 piece of tissue, say, hey, Lance, how about giving me
 7 a piece of your muscle tissue and doing biopsies like
 8 you're doing on this?
 9 A. Yes.
 10 Q. Could you do that back when he was --
 11 A. Well, we asked him and he said, yeah. So we
 12 said, well, when can we do it? When is the racing
 13 season? Is it going to hurt? Will it affect my
 14 performance? He finally said yeah. Then we said,
 15 well, we can't do it right now. You've got to come
 16 back next week. We have to get approval from the
 17 university and all that stuff. And, you know, the
 18 approval didn't fit when he was in town and we just
 19 never got the muscle biopsy.
 20 Q. Okay. Next slide.
 21 A. We are still -- he says yes.
 22 Q. I'm sorry?
 23 A. He says yes.
 24 Q. What's this slide?
 25 A. Well, this just shows a picture of Lance and

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1 he's won his seventh consecutive Tour de Frances.
 2 Q. Right. He was the official winner, right?
 3 A. And this shows him in my laboratory.
 4 MS. BLUE: Why don't you turn off the
 5 light for two seconds. Okay, now you can turn it on.
 6 Q. (BY MS. BLUE) And what's important about
 7 that slide?
 8 A. Nothing. It shows him when he was younger
 9 and we both were a little bit younger. And he's
 10 riding a Schwinn Velodyne here and there's a lot of
 11 comments at deposition of what class of ergometer did
 12 you use. We use multiple bicycle ergometers. In a
 13 single test we'll use our standard laboratory
 14 ergometer which we would calibrate, which we know the
 15 power is absolute.
 16 And then in addition to that for another
 17 30 minutes sub-maximal ride we will have the cyclist
 18 ride their own bicycle because they appear more
 19 comfortable on that and we look to see if their
 20 lactate responses on our ergometer versus theirs are
 21 any different. So they like information about riding
 22 their own bicycle, so we do both.
 23 Q. What's the next slide?
 24 A. This simply shows him when he's a little bit
 25 older, more recently. Young Lance.

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1 Next slide. You've heard all this and
 2 you went through his accomplishments.
 3 And here, next slide. Had brain cancer
 4 certainly, an operation.
 5 Next slide.
 6 Q. And that takes us to what year? Let's see,
 7 the brain cancer is '96?
 8 A. Yes. I can show you on --
 9 Q. It's brain, testicular and lung. It was
 10 found in three places in his body?
 11 A. Correct.
 12 Q. Called advanced?
 13 A. Yes.
 14 Q. What does this show?
 15 A. This simply shows a time scale where we put
 16 all the data together.
 17 Q. Do you need the next slide?
 18 A. Yes. So we began studying Lance when he was
 19 21. It gives the age and the years. He won his first
 20 world championship, we heard, as a young kid. He went
 21 out there, big engine, lot of guts, broke away and
 22 beat Miguel Indurain in a one-day race.
 23 He was diagnosed and came up with cancer,
 24 had chemotherapy. He came back remarkably to finish
 25 fourth place in the world championships the next year

1 and then he won his first Tour de France in '99. So
2 that's the time period over which we were studying
3 Lance.

4 As I mentioned before, we found that --
5 which is typical of what has been reported before,
6 that athletes who have trained for a number of years
7 already don't continue to show improvements in certain
8 variables like their cardiovascular system and their
9 raw aerobic energy production, and indeed Lance was
10 stable in those values during this seven-year period.

11 Q. Why was that important?

12 A. Well, it says that we know he's improving
13 during the seven-year period, and everybody's --
14 there's a lot of focus on maximal oxygen uptake and
15 raw aerobic power, because this was one of the first
16 scientific measures made in exercise physiology and it
17 does relate to endurance performance, but you see
18 correlations. And certainly some physiologists and
19 some cyclists are ill-informed when they say that VO2
20 max is the only factor that determines endurance
21 performance. It's one of many, as we see in the
22 model.

23 Q. Why is that important when you're trying to
24 figure out something to help the panel about
25 why Lance -- I mean, Lance didn't have to cheat? Why

1 of the -- someone who's an elite cyclist to have that
2 ability to have a heart rate of 200?

3 THE WITNESS: No. Very good. His -- an
4 average cyclist his age, his size would have a maximal
5 heart rate of 180. In fact, you often hear the value
6 of 220 minus your age for your maximal heart rate, and
7 actually it's a little lower than that in trained
8 athletes because training lowers your maximal heart
9 rate.

10 Lance is remarkable in that his maximal
11 heart rate, especially for somebody who's pretty large
12 for a bicyclist, and larger people tend to have lower
13 maximal heart rates, not higher. So his -- you know,
14 his having a high -- it's very rare to see competitive
15 cyclists and especially people his size with heart
16 rates above 190. Certainly very few. I've never seen
17 anybody with heart rates above 200. His was 207. And
18 you can see it remains high. He's human. It does
19 come down with age, that's typical of everybody. We
20 lose about one heartbeat per year at maximum. Still
21 his maximum heart rate is 200 beats per minute. That
22 gives him, in and of itself, a five to ten percent
23 advantage over other bicyclists. A heart that can
24 beat more frequently at maximum while still pumping a
25 lot of blood is going to have that advantage.

1 do you need to consider everything?

2 A. Well, because a person's performance is the
3 sum of all the components. And all -- since one
4 component doesn't change very much, that doesn't mean
5 his performance should not be improving, because he --
6 his raw power is not changing, but his efficiency is
7 changing remarkably.

8 Q. Okay.

9 A. So -- anyway, so those are the things that
10 were stable. These report what his maximal oxygen
11 uptake values were just from time points that we
12 measured him. Of course, the important thing is the
13 highest values will be when he's in his best shape,
14 when he's measured in the racing season, so we made
15 measurements here in racing season. But for our
16 testing it's most important to be as standard as
17 possible with Lance to get him as close to the same
18 time of year for the same season, preseason, and to
19 make our measurements as, you know -- you know, as
20 often as we practically could make those measurements
21 over the seven-year period.

22 ARBITRATOR LYON: Let me ask a question.
23 On there there is a maximal heart rate?

24 THE WITNESS: Yes.

25 ARBITRATOR LYON: Is that typical for one

1 ARBITRATOR LYON: What's his resting
2 heart rate, do you remember?

3 THE WITNESS: I don't know. We don't
4 measure that because it's really not an important
5 function. You get a report in the lay literature that
6 it's something easy to measure in people lying down.
7 It does go down as you become better and better
8 conditioned. Your resting heart rate goes down. That
9 really does not have direct relationship to your
10 performance abilities.

11 Q. (BY MS. BLUE) Okay. Next slide, please.

12 A. So Lance is remarkable in many factors put
13 together, including that maximal heart rate is, you
14 know, is one -- I appreciate you pointing it out.

15 Q. Nobody else in the world has this kind of
16 data on Lance other than you, true?

17 A. Not complete.

18 Q. Okay. And so he comes in, and you've seen
19 that while he's riding a bicycle, we will be measuring
20 his oxygen consumption. We measure how much air is
21 going in and out. We measure how much oxygen his
22 whole body is consuming. By knowing how much oxygen
23 his whole body is consuming we know exactly how much
24 raw energy, watts of raw power his body is expending,
25 and then we compare that to how many watts of power is

1 being generated on the bicycle. We'll also -- so
 2 that's -- I'll go ahead and get into efficiency very
 3 briefly. You take blood samples.
 4 In the previous slide on the Velodyne we
 5 had a catheter in the forearm vein, we took a blood
 6 sample, we took a blood sample from -- took a drop of
 7 blood from a finger stick as we see happening here.
 8 Again, this goes back to what the model
 9 is, and, again, a person's performance and their power
 10 is dependent -- you can't relate it to any one factor
 11 like maximal oxygen uptake or just their blood lactate
 12 level. It's a combination of how all of these factors
 13 integrate together. And again, remarkably, Lance
 14 improved his gross mechanical efficiency.
 15 And we see that here, that we measure
 16 efficiency and there's only one way you can define
 17 efficiency, is how much you get out. Lots of power
 18 are transmitted to the bicycle ergometer compared to
 19 how many watts of power, raw power, the engine is
 20 producing as we measure by oxygen consumption. It's
 21 simply that ratio and it's always expressed as a
 22 percent.
 23 And we can see here that, you know,
 24 Lance, as typical of many cyclists, had just an
 25 average efficiency when he was young, 21.18 percent

1 efficient. There are different ways you can measure
 2 efficiencies, just the gross efficiency, or if you
 3 want to get a measure of efficiency that relates more
 4 not just to the whole body, but something specific to
 5 the muscle itself, you measure delta efficiency, that
 6 is the change in energy his body has to put in or how
 7 much increase his muscle -- how much increase his
 8 muscles -- how much his muscles increase oxygen
 9 consumption relative to how much the -- the power is
 10 increased on the bicycle itself. So the delta
 11 efficiency is a -- is a reflection more specific to
 12 the exercising the muscles rather than the whole body
 13 where other processes in the whole body going on where
 14 your heart is beating, your diaphragm is moving,
 15 things like that. It's a technical point. It really
 16 does not differentiate our values because we see the
 17 very same trends in gross efficiency, in delta
 18 efficiency.
 19 The point is Lance early on was only
 20 21 percent efficient, which is average, and he's
 21 improved that remarkably to 23 percent.
 22 Next slide. In fact, I think you'll see
 23 eight percent coming over. That's an eight percent
 24 increase. And again, you know, that is all -- it's
 25 due to factors which allow him to better transmit that

1 raw power into bicycling.
 2 Q. This is sort of the last piece of your
 3 PowerPoint. Why is this important to form your basis
 4 that Lance didn't have to cheat?
 5 A. Well, he improved his power out -- over the
 6 seven-year period we studied him he improved his power
 7 output in just absolute terms by eight percent, eight
 8 percent more raw power, and he reduced his body weight
 9 by eight percent. The quotient of those two is an 18
 10 percent increase in power per kilogram. That's huge.
 11 That's a huge level. And remember, that's the amount
 12 that he improved after having won his first world
 13 championships. That's from the time he was 21 years
 14 old to his -- winning his first Tour de France.
 15 Next slide. And again, what I want to
 16 get into is we are often asked how can you explain
 17 this improved -- improvement of muscle efficiency, and
 18 that's something that's of great interest to me
 19 because I've published papers prior, long before
 20 studying Lance, relating muscle efficiency to the
 21 types of proteins you have in your muscle, the
 22 biochemistry of your muscle, whether you have slow
 23 twitch or fast twitch.
 24 You can see here the muscles are made up
 25 of proteins, kind of like pistons in the engine that

1 capture the energy, then transmit that energy through
 2 the drive train to the wheel. And so these are the
 3 pistons, actually, the little motors in the muscle,
 4 and when we -- our muscles break down or use this
 5 chemical energy ATP, 20 percent goes to power and 80
 6 percent goes to heat. And, you know, that's typical
 7 of biological reactions. By the way, cars are much
 8 less efficient. People are -- cars are eight percent
 9 efficient or whatever, so people are 20 some odd
 10 percent, so we are much better energy converters than
 11 combustion engines.
 12 So I'm very interested in what the
 13 chemical process is here, but that doesn't really
 14 matter. The fact is we are showing for the Armstrong
 15 case here how much we are confident that his
 16 efficiency and power output is improving by the eight
 17 percent. There's no doubt about that.
 18 And so if we then look over the years
 19 at --
 20 Q. What are we looking at?
 21 A. Well, we are looking at -- over Lance's
 22 maturation from age 21 through 28, over the -- over
 23 this period, leading up -- the seven-year period
 24 before he won his first Tour de France right here, you
 25 can see that his -- his muscle efficiency increased in

1 a straight line. I mean, it's just remarkable.
 2 Q. Why is that important that it went like up in
 3 a straight line? Why is that good?
 4 A. Well, that went over eight percent there.
 5 It's -- it's good because, you know, with a straight
 6 line there's no interpretation -- there's less
 7 interpretation as to what should the shape of that
 8 line look like. I mean, the point is how many data
 9 points do you need to draw a straight line. If it
 10 turns out to be straight, you measure one point and
 11 that point and that characterizes the line.
 12 Q. Straight is straight?
 13 A. Straight is straight. And you make a
 14 measurement here or here until -- you know, I guess
 15 you might hear discussion as to if you really want to
 16 have a valid study, wouldn't you equally space the
 17 points out. In an ideal world I guess you would. We
 18 measured what we could and the fact is it came out to
 19 be this relationship.
 20 ARBITRATOR CHERNICK: What is the left
 21 axis?
 22 THE WITNESS: This --
 23 ARBITRATOR CHERNICK: The other left.
 24 THE WITNESS: Oh, this here is body
 25 weight, and I'll be getting to that, thank you.

1 400 watts over that seven-year period.
 2 Q. That's good?
 3 A. Yes, more watts, more speed, that's good.
 4 Next slide.
 5 Q. I think we have got a couple more.
 6 A. And we have related -- we have done studies
 7 not just on Lance, but we studied 20 other elite
 8 cyclists doing direct muscle biopsies.
 9 And -- just press it one more. And
 10 again.
 11 And we see this here, but we had these
 12 cyclists exercise at the same exact rate of oxygen
 13 consumption. These are two different groups. One
 14 group had predominantly slow twitch muscle fibers, 75
 15 percent slow. The other group had average muscle
 16 fiber composition. So these two groups were identical
 17 in their VO2 max, identical in what their -- how hard
 18 they're exercising for one hour, how much energy their
 19 body was producing, how much oxygen they were
 20 consuming. But the group who had a higher percent
 21 slow twitch muscle fibers were able to produce nine
 22 percent more power. They averaged 342 watts in an
 23 hour compared to 315.
 24 Q. So your point is slow twitch muscle, that's
 25 good?

1 That's my last point I'll be making.
 2 ARBITRATOR CHERNICK: Okay.
 3 Q. (BY MS. BLUE) Okay. Are you ready for the
 4 next slide?
 5 A. Yes, please. Well, before we get to body
 6 weight, just to put this in some numerical terms, you
 7 know, as to eight percent more power, how does that
 8 relate to watts? If we made measurements in the
 9 laboratory as to when Lance's body is expending a
 10 certain amount of energy and we base that when he's
 11 consuming five liters per minute of oxygen, you know,
 12 that's our currency of bodily energy production,
 13 oxygen consumption. So that's held constant. And
 14 that represents, by the way, 83 percent of his
 15 maximum, okay. And that's -- he can exercise five
 16 liters or 83 percent of his maximum for at least two
 17 hours. I mean, that's -- you know, that's well below
 18 the intensities that you see him finishing races at.
 19 But you can see here that's a sub-maximum
 20 intensity. It's something that's not very difficult
 21 for him. He can ride for several hours. He's in a
 22 steady state. And we can then quantify exactly how
 23 many watts he's producing. And you can see here that
 24 wattage has gone up. I mean, 374 watts is remarkable
 25 for a human. But that's gone up eight percent to over

1 A. Yes, slow twitch is good. And this agrees
 2 along with the idea that the seven years of training,
 3 Lance's maturation and the seven years of training
 4 leading up to him winning the Tour de France occurred
 5 by him increasing his power output by eight percent.
 6 And we would predict he did that by changing his
 7 muscle fiber composition. He converted fast twitch
 8 muscle fibers into slow twitch muscle fibers, which
 9 chemically are more efficient for the reasons I've
 10 shown.
 11 So we've done other studies that support
 12 our theories as to how Lance might have accomplished
 13 that, but we have not done the direct measurements in
 14 Lance. That's not --
 15 ARBITRATOR LYON: Do you do that with a
 16 needle? Is that how you do it?
 17 THE WITNESS: Yes, a needle is a loose
 18 interpretation of the word needle, because it's about
 19 this -- it's actually this big. That goes in about
 20 this deep. But it's not -- it doesn't -- it doesn't
 21 hurt.
 22 MS. BLUE: Unless it's you.
 23 MR. HERMAN: Right.
 24 ARBITRATOR LYON: Have you had it done to
 25 yourself?

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1 THE WITNESS: I've had about 20.
 2 MS. BLUE: Would you be willing to do it
 3 now in front of the panel?
 4 Q. (BY MS. BLUE) Now, are we going to muscle --
 5 A. We are going to body weight and hopefully
 6 finishing up, because body weight, we have heard a lot
 7 about that.
 8 Q. Now, we are changing topics to body weight.
 9 A. Yeah. So he's increased his raw power to
 10 eight percent.
 11 Q. And that's good?
 12 A. That's good. And now he's reducing his body
 13 weight and that's good. And how much has he reduced
 14 his body weight?
 15 Q. Because it's the sum of the parts?
 16 A. Yes. So, you know, there's the data. These
 17 were the data that were published in our Journal of
 18 Applied Physiology study on the top here, so I just
 19 cut and pasted that in. That wasn't on the original,
 20 but that's the same one.
 21 Q. Where does it show he's drinking beer and
 22 eating Mexican food?
 23 A. Well, I don't know. Are you signing above
 24 this line?
 25 And so I put this in kilograms and I put

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1 this in pounds also just because we are going back and
 2 forth. So the point is that normally -- when he's a
 3 little younger, he's a little heavier. You know, this
 4 was after chemo, by the way, eight months after
 5 chemotherapy in August when he was deciding whether he
 6 could race again. He came to my laboratory and we --
 7 you know, we made measurements and his body weight had
 8 returned back up to, you know, the mid 170s, there --
 9 this period here, 79.5 kilograms, and so -- and these
 10 represent the self-reported data from Lance where I
 11 would ask him what was your body weight when you raced
 12 in this race or in the Tour de France. Just as we
 13 heard him yesterday, you know, how much did you weigh,
 14 and he was saying 72 kilograms, 73 during this year,
 15 73 and a half.
 16 The important point is that he learned
 17 that, you know, early on in his career he's a bit
 18 heavier and then decided he was going to focus on the
 19 Tour de France and try and win that race, and to win
 20 that race you have to be light. You have to be light
 21 to climb those very steep mountains and that's a
 22 no-brainer.
 23 Q. Well, when you say it's a no-brainer, do you
 24 know his big competitor Jan --
 25 A. Ulrich in Germany, yes.

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1 Q. Compare his body weight with Lance's.
 2 A. I don't know exactly what Ulrich's body
 3 weight is.
 4 Q. Is he a bit heavier?
 5 A. He's heavier. He's certainly heavier than
 6 Lance and I believe he's fatter, although I haven't
 7 seen any published data on that. There's always
 8 discussion in the press that Ulrich is too fat. I
 9 don't know. You hear all these things.
 10 Q. Is that one reason why Lance could be really
 11 good at hills and he could be better than his
 12 competitor because Lance is --
 13 A. Oh, yes, there's no doubt about it. When you
 14 lose ten pounds, when you lower your body weight ten
 15 pounds, you know, or six percent, I mean, that means
 16 that you can ride up those hills that much faster,
 17 four to six percent faster going up those hills. So
 18 there's a direct proportion to how much you lower your
 19 body weight and how much faster you can ride up the
 20 hills. I mean, that's why these cyclists are obsessed
 21 with losing -- you know, they talk about losing 100
 22 grams on their bicycle.
 23 Q. How many paper clips is that?
 24 A. 100 paper clips, I heard. So the point is if
 25 you lose a pound, that represents 500 grams. A pound

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1 of body weight is 500 grams, 10 pounds is 5,000 grams.
 2 Look, there's no comparison. When cyclists want to
 3 reduce the weight of them and their bicycle, by far,
 4 by orders of magnitude of ten or 20-fold the most
 5 important thing to focus on is your body, not the
 6 bicycle. The bicycle only weighs 10, 12 pounds to
 7 begin with, you know, everything. I mean, come on.
 8 So reducing body weight is the key. And
 9 why the sport of bicycling, especially the Tour de
 10 France, hasn't emphasized that more importantly over
 11 the years is just beyond me. It's -- and I have
 12 opinions as to why that is, is they're more interested
 13 in surviving the Tour de France, you know, than
 14 winning it. They have this mentality that from early
 15 on in racing it's like I've got to do whatever it
 16 takes just to survive this, you know, and you want to
 17 start that with as much reserved fat. You don't want
 18 to have to abandon the race, you know. But if you
 19 want to win the race, you know, you do whatever it
 20 takes and that includes losing body weight.
 21 And hopefully in a question and answer
 22 period I can follow up on that with the idea that
 23 Lance is literally -- he goes hungrier, he's hungrier.
 24 He says for the two or three months before the Tour de
 25 France I'm going to be hungry. I'm going to lose some

1 body weight and that's important. I'll do what it
 2 takes, because I know -- I know that saving ten pounds
 3 is remarkably important. Why his European competitors
 4 don't do the same is just beyond me. It's --
 5 Q. Okay. Let's go ahead and finish the
 6 PowerPoint, because we have some more to cover.
 7 A. So anyway.
 8 Q. That's him training in the high altitudes
 9 which he loves to do?
 10 A. No, that's him racing because he's wearing
 11 the yellow jersey.
 12 Anyway, so the point is his watts went up
 13 eight percent, his body weight goes down about eight
 14 percent and the quotient results in having more watts
 15 per kilogram to go up the steep mountains and ride
 16 away from his competitors when he has to. And we have
 17 heard how important it is that his team makes sure
 18 that he's rested, that during the first -- you know,
 19 these are five to six-hour races and the first four to
 20 five hours he expends as little energy as possible and
 21 he waits until the last 20, 30 minutes of the race,
 22 the steepest hills, and he knows that's when he's
 23 going to produce as much power as he can and he's
 24 confident that he can produce more watts per kilogram
 25 than anybody else, and if they're suffering -- well,

1 if he's suffering, he knows they're suffering even
 2 more.
 3 Q. Okay, Doctor, let's go ahead and conclude the
 4 PowerPoint.
 5 A. So it's -- if you estimate how many watts of
 6 power he can produce during these bursts when he rides
 7 away from his competitors for the -- you know, for the
 8 last five to 15-minute period of the race, you know,
 9 base upon my calculations of VO2 and efficiency and
 10 knowing him, you know, I would estimate that he can
 11 maintain about 500 watts when he weighs about 71
 12 kilograms and that works out to a power per kilogram
 13 ratio of seven watts per kilogram. So that's numbers
 14 that bicyclists throw around, you know, as to
 15 performance.
 16 Q. Okay. Next slide.
 17 A. So it's a matter of putting these points
 18 together, a kid with raw energy, a lot of aerobic
 19 power. That doesn't change much over the years. He's
 20 shown remarkable improvements in his transmission by
 21 increasing his efficiency and lowering his body weight
 22 and those add up to a remarkable 18-percent
 23 improvement in the power of the kilogram body weight.
 24 So he went from a young kid who won one-day, a world
 25 championship with raw power and drive and eagerness to

1 win, didn't have a lot of finesse, didn't have a lot
 2 of efficiency.
 3 Over seven years remarkably developed his
 4 efficiency and lowered his body weight and went on to
 5 become the winner of the Tour de France in '99.
 6 Q. And that adds up to -- next slide is?
 7 A. I think the end.
 8 Q. No, it adds up to a little picture that I
 9 thought --
 10 MS. BONE: It's going to be 79.
 11 THE WITNESS: You know this better than I
 12 do.
 13 People say that is he a genetic freak,
 14 how could this possibly -- what explains all this.
 15 And I'll be happy to entertain any Vince Young
 16 analogies if you watch American football, because he
 17 made it look too easy, Vince Young, I mean, because he
 18 was good. You know, Vince Young was good at passing
 19 and running both. He didn't have a weakness and he
 20 made it look easy. Is he a freak, alien, what?
 21 Next slide. People always look -- how do
 22 you explain this? You can't explain this. It must
 23 be. It's a matter of probability.
 24 Q. (BY MS. BLUE) What's this slide? What does
 25 this all mean? What is the point of this slide?

1 A. Well, this slide, again, is a mathematical
 2 expression. And that is if Lance were -- you know,
 3 Lance is the best endurance athlete on the planet.
 4 You say how is that possible? You could say, as the
 5 press has said, that he's one in a billion on the
 6 planet. What does that take? Does he have to be a
 7 genetic freak or super human in any one component? My
 8 point is you don't have to. You just have to make
 9 sure you don't have a weakness, okay, that you
 10 identify your weakest link and you improve that as
 11 much as possible, and that's what I believe Lance has
 12 accomplished.
 13 My point here is if we take just these
 14 factors and add them up as to what it takes to be one
 15 in a billion, you can see all these lines are
 16 connected. My point is it's a probability statement.
 17 A person who is a competitive bicyclist who trains for
 18 a number of years only has to be one out of ten in
 19 muscle capillary density, blood vessels around the
 20 muscle that release -- that remove the lactic acid,
 21 one out of 20 in stroke volume, heart size and how
 22 much blood they can pump, one out of two in hemoglobin
 23 content, one out of five in the mitochondria or the
 24 aerobic enzymes where the raw energy is produced, the
 25 technique of bicycling one out of ten, and then

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1 percent slow twitch one out of 500, which I believe is
 2 very important for -- for being efficient, and Lance's
 3 efficiency certainly is raised from being very average
 4 or below average to being superior from years of hard
 5 training. We have documented that.
 6 The point is if you multiply 10 times 20
 7 times 2 times 5 times 10 times 500, the end -- the end
 8 product of that is one in a billion. That's all it
 9 takes. You don't have to be a genetic freak. You
 10 just have to make sure you don't have a weak component
 11 or that you identify your weak component and you
 12 improve that, so...
 13 Q. That's your mathematical analysis of --
 14 A. Yes, that's my attempt when people say, well,
 15 this person must be a freak. They say that thinking
 16 that there's only one component that fits in there and
 17 in reality, the way to win is to make sure that you
 18 don't have any weaknesses.
 19 And we have seen that with Lance
 20 Armstrong. You know, his weakness had been his muscle
 21 efficiency. He improved that remarkably. He doesn't
 22 have bad days when he races. He has a great team. He
 23 has a plan. And I hope we get a chance to discuss
 24 what he does well in his training before the Tour de
 25 France, because what he does is he rests and he goes

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1 into it rested and prepared, not like his competitors
 2 wind up going into the race tired. They ride the Tour
 3 of Italy, they ride the Tour of Switzerland. Why do
 4 you want to do that before you're starting a
 5 three-week Tour de France? That's nuts. That's
 6 absolutely nuts. They're beating themselves.
 7 But anyway, he doesn't have a weakness
 8 and he doesn't have to be super human or a cheater to
 9 accomplish all this. And he can improve more, too, I
 10 think.
 11 Q. Okay. And lastly, your last slide, because
 12 we have got a bunch of stuff to cover so I'm trying to
 13 speed you along.
 14 A. My last slide, this all fits into what I've
 15 been saying for years, or in a research article I
 16 published in '91 summarizing the literature as to when
 17 you take people, you train them for a number of years
 18 from untrained to novice to good, what are the
 19 progressions that they show? Early on they develop
 20 the cardiovascular system, raw ability and they
 21 develop these, and finally they develop muscle
 22 efficiency.
 23 Q. And in conclusion, what you've talked about
 24 goes to point number one, how Lance wins without
 25 cheating, true?

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1 A. Correct.
 2 Q. All right.
 3 ARBITRATOR FAULKNER: Before you go
 4 there, can I ask you a question? On the previous
 5 slide you had a notation on the top left of resistance
 6 one in ten. What does that refer to?
 7 THE WITNESS: Yes, that's the
 8 aerodynamics. And what I hadn't shown is up here,
 9 this is all the bike design and the cyclist design
 10 that I was talking about. So this is the drag that
 11 the bicyclist encounters when they're riding.
 12 ARBITRATOR FAULKNER: Okay.
 13 THE WITNESS: I didn't go into that
 14 because I wanted to focus just on the physiology.
 15 What you see in the video as to how important it is --
 16 ARBITRATOR FAULKNER: I didn't know if
 17 you meant resistance to pain in some quantifiable way.
 18 You answered my question, thank you.
 19 MS. BLUE: Thank you. May I proceed?
 20 ARBITRATOR FAULKNER: Sure, please.
 21 Q. (BY MS. BLUE) Okay. Let's change topics.
 22 And if you could put up Respondents' Exhibit 33. You
 23 wrote this article?
 24 A. Yes.
 25 Q. Is it science?

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1 A. Yes.
 2 Q. Is it peer reviewed?
 3 A. Yes.
 4 Q. It means people look at it?
 5 A. Yes.
 6 Q. When it's peer reviewed, is junk science more
 7 likely to be published if it's peer reviewed?
 8 A. No.
 9 Q. It's in the American -- I'm sorry -- Journal
 10 of Applied Physiology?
 11 A. Correct.
 12 Q. Good journal?
 13 A. Yes.
 14 Q. Scientific?
 15 A. Yes.
 16 Q. You've been here for some of the testimony.
 17 I think Joe Longley for sure, remember, where they've
 18 accused Lance of cheating? And now SCA's side of
 19 the -- that side of the table, they're sort of
 20 accusing you of cheating in this article.
 21 A. The SCA side?
 22 Q. Right.
 23 A. Well --
 24 Q. Did they say that it was not based on
 25 scientific principles and didn't have internal or

1 external validity and it wasn't valid?
 2 A. Oh, yes, yes.
 3 Q. Just so the panel knows, this article wasn't
 4 done for litigation, was it?
 5 A. No.
 6 Q. When you published it, did you ever think you
 7 would be sitting here talking to a three-person
 8 panel --
 9 A. No.
 10 Q. -- about Lance Armstrong?
 11 A. No.
 12 Q. And by the way, when you say peer reviewed,
 13 let's just talk just for a second about what that
 14 means so the panel knows that this article has been
 15 looked at and isn't published in some junk science
 16 magazine.
 17 A. Right. Well, you -- you write the article,
 18 you submit it to the editorial office, in this case
 19 this is the Journal of Applied Physiology, which is
 20 run by a professional society which is the American
 21 Physiological Society. The editor then sends it to a
 22 section editor who then sends it to three reviewers.
 23 The comments come back from the three reviewers in
 24 addition to the section editor reviewing it and
 25 suggestions are made for revision, and then you go

1 through the process of that and then a decision is
 2 made by the section editor as to whether it's
 3 acceptable or not. And the acceptance rate for the
 4 Journal of Applied Physiology is -- I think it's
 5 published and I don't know what it is, maybe 30
 6 percent of the articles submitted are accepted. I'm
 7 not sure exactly what it is, but it's a -- you know,
 8 it's a high impact journal, it's a very good journal.
 9 Q. But you know that Dr. Michael Ashenden, who's
 10 here today, has criticized your work; you know that?
 11 A. Yes.
 12 Q. In conclusion to this point, because I think
 13 the panel is going to hear from SCA's expert, I want
 14 the panel to know this term selective data analysis.
 15 And as a scientist who's published over 100 articles
 16 on the areas you've talked about, why it's unfair to
 17 say, oh, maybe Lance is a cheater based on this --
 18 this principle of, quote, selective data analysis.
 19 What does that mean?
 20 A. Well, the principle is when -- you know, when
 21 a person exposes or allows other individuals to see
 22 all their numbers and anything they want, then -- then
 23 the person you're trusting with that information is
 24 able to take those and build whatever case they want
 25 out of organizing things very selectively, comparing,

1 and it just presents a very incomplete picture. You
 2 know, especially when we talk about human performance
 3 here where there's no one factor, it's a number of
 4 factors. And so I -- you know, I heard criticisms
 5 from my study about what ergometer did I use and what
 6 test did I do and selective here or there looking for
 7 criticisms or looking to see if -- what the suspicions
 8 of the articles -- of this article is.
 9 So it's come under great scrutiny, and
 10 from that I can only imagine, you know, what scrutiny
 11 Lance comes under and people trying to piece together
 12 a certain scenario from isolated bits of data and
 13 selectively building a case that is just not
 14 representative of the truth.
 15 Q. Well, let's see if you're the lone ranger. I
 16 mean, I want to see if Ed Coyle, wow, maybe he's just
 17 a lone ranger out there. You know a guy named
 18 Dr. Andrew M. Jones from England? He's either from
 19 Oxford or Exeter or --
 20 A. Yes.
 21 Q. Did he do a study of an Olympic runner?
 22 A. Yes.
 23 Q. And very briefly, it's got to be briefly, and
 24 this is just to show that you're not the lone ranger,
 25 why did Dr. Andrew Jones from over in England who did

1 a five-year physiological case study on an Olympic
 2 runner, why is that important to what you did, to
 3 prove your study was viable and credible?
 4 A. Dr. Andrew Jones is a respected scientist.
 5 He got his degree at -- Ph.D. from UCLA studying under
 6 Brian Whipp. And he's English. In fact, he went --
 7 he studied Paula Radcliffe who is the current woman's
 8 world record holder to the --
 9 Q. She's British?
 10 A. She's British, the marathon.
 11 Q. Anyway, how long did it take her to do a
 12 whole 26.3 marathon?
 13 A. Oh, you put me on the spot there. I think
 14 she's run two hours and 17 minutes, something in that
 15 range.
 16 Q. Good?
 17 A. So, yeah, she's --
 18 Q. Fast?
 19 A. She's remarkable. He studied her over her
 20 maturation period and she improved her running
 21 efficiency, just the same order of magnitude that
 22 Lance did. He studied her first over a five-year
 23 period and published a paper on that. And he studied
 24 her an additional seven years now. So I just happened
 25 to meet him in England, we were on a panel together.

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1 And it was remarkable that when I showed Armstrong's
 2 data he showed Paula's data, Paula Radcliffe, and, you
 3 know, they both improved their efficiency one or two
 4 percent every year with continued training. And they
 5 both went on to become the world's best in their
 6 sports. So our data were in remarkable agreement.
 7 Q. Is that more data to base your opinion, that
 8 gives credibility to your opinion that Lance doesn't
 9 have to cheat?
 10 A. Yes.
 11 Q. Is that science, Doctor?
 12 A. Yes.
 13 Q. Is this science fiction?
 14 A. There are a lot of lies in there.
 15 Q. Okay. We are looking at LA Confidential.
 16 And now I'm going to turn to a whole other topic. We
 17 are done with number one. We are going to go to Greg
 18 LeMond.
 19 Greg LeMond. I'll never get another
 20 chance to do this, so here I go. See this book?
 21 A. Yes.
 22 Q. Is that Greg LeMond's name?
 23 A. Yes.
 24 Q. Does that say, si son histoire est vraie,
 25 c'est le plus grand come-back de l'histoire du sport.

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1 sielle ne le'st pas, c'est la plus grande fraude.
 2 Do you see that? That's on the rider of
 3 Walsh's book. It says if this story is true, it's the
 4 biggest comeback in the history of sport, and if it's
 5 not, it's the greatest fraud, and it quotes Greg
 6 LeMond.
 7 A. Yes.
 8 Q. Are you in this book?
 9 A. Yes.
 10 Q. Are you -- are you part of the story that
 11 makes up the Greg LeMond story?
 12 A. Apparently so.
 13 Q. Okay. This book -- tell -- look at the
 14 panel. Does it basically -- does it have lies in it?
 15 A. Yes.
 16 Q. And I'm sure you've spoken to journalists all
 17 over the world, New York Times, the Post. The really
 18 good journalists, do they ever call you and say, hey,
 19 Doctor, you know, we are writing about Lance
 20 Armstrong. We want to do a cite check or we want to
 21 do a statement check. Do you ever have that happen?
 22 A. I get calls all the time from the press, not
 23 just about Lance, but other articles or for opinions,
 24 so, yes.
 25 Q. Walsh?

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1 A. Never called me.
 2 Q. Never? Are you hard to find?
 3 A. Huh?
 4 Q. Are you hard to find?
 5 A. No.
 6 Q. Well, I mean, he must have, because he quoted
 7 you in the book. He certainly knew about you.
 8 A. Yes.
 9 Q. Never called you to verify?
 10 A. Never called me.
 11 Q. Okay. Well, in this book, this story about
 12 Greg LeMond and you is on page 304. And the way I
 13 want to handle it, because I want to try to do part B,
 14 the second one and the lies that Greg LeMond told, I
 15 want you to just tell the panel what happened, what
 16 really happened, and then we are going to just take a
 17 few minutes, go through the English translation and
 18 have you tell the panel if there are gross
 19 misrepresentations in LA Confidential. Tell the
 20 panel, do you know Greg LeMond?
 21 A. I've met him a couple of times, yes.
 22 Q. And I want to turn your attention
 23 specifically to the meeting that took place in San
 24 Antonio.
 25 A. Yes.

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1 Q. Do you remember about what year that was,
 2 Doctor?
 3 A. That was April of 2001.
 4 Q. Okay. Tell the panel what happened.
 5 A. Well, I was asked to give a lecture on
 6 bicycling and ergogenic aids in cycling given my work
 7 in nutrition and fluid replacement and carbohydrates.
 8 And this was in a meeting of the -- I believe it was
 9 the American Sports Medicine Society, several hundred
 10 physicians who work with sporting teams, and, you
 11 know, I gave my presentation, which I also had
 12 technical problems with. I was using Eric Heiden's
 13 computer, which kept crashing on it, and he was a
 14 speed skater and part of the panel and also a
 15 physician and orthopedic surgeon in California.
 16 And so I gave my lecture, which was
 17 mostly on nutrition, however, I was asked to -- it was
 18 known that I had done some work with Lance Armstrong.
 19 So there was interest in showing some of his data and
 20 I was glad to do that, and so I gave my lecture. I
 21 believe the PowerPoint of that presentation has been
 22 introduced as evidence here somewhere in the packet.
 23 And I -- you know, I gave my lecture, LeMond was up
 24 right after me. He gave his and spoke about his
 25 experience in bicycling and made some interesting

1 comments. I then participated in a panel discussion
 2 with -- with several of the speakers and the session
 3 ended. And, you know, I was collecting my computer
 4 and things and getting ready to leave and waiting for
 5 a colleague, Dr. Mike Smith who also gave a lecture,
 6 and Greg LeMond was surrounded by -- by individuals
 7 asking for his autograph and to take pictures and --
 8 and I was preparing to leave and waiting for Mike
 9 Smith and as Greg -- as I was leaving, Greg kind of
 10 broke away from a few people and he saw me moving
 11 away, and he said, wait a minute, I want to talk to
 12 you. Hold on.

13 So I waited a moment or two and, you
 14 know, he broke away and we had a conversation. And we
 15 had the conversation probably in the middle of the
 16 conference room. We were just kind of walking down
 17 the aisle because I was on my way out. His wife Kathy
 18 was in the room. In fact, she was waiting for him
 19 also, and I didn't know it was his wife. It was just
 20 a woman who had come up to him and asked him -- he
 21 asked her to -- I remember he asked her, do you have
 22 my wallet, so that's how I knew that they must have
 23 been husband and wife or something, and she said no.

24 And so when he and I began to talk and we
 25 were alone, she was not within earshot of us, we

1 walked away toward the center of the conference room
 2 and he asked -- he said, you know, you were talking
 3 about Armstrong, his muscle efficiency as increasing
 4 just like I had talked here. He goes, I know how that
 5 happened. I know how that happened.

6 Q. Was he excitable?

7 A. Yes. Well, he was -- yeah. I'm excitable,
 8 too, I guess. And so he goes, Armstrong's increasing
 9 his RPMs. We've seen this. He's going at higher RPMs
 10 now. You know, he's moving his legs more times per
 11 minute when he's bicycling. I go, well, but you see
 12 that on television when he's racing and, yeah, he's
 13 doing that, but when we measure efficiency in my
 14 laboratory, we do it on a bicycle ergometer and we
 15 keep everything the same, including over these years
 16 Armstrong bicycled at 85 revolutions per minute. We
 17 keep that gearing and that cadence constant so nothing
 18 else is changing.

19 So, you know, my measurements are
 20 laboratory measurements of efficiency and he's not
 21 increasing his RPMs. We control that. Well, he never
 22 understood that.

23 Q. He meaning who? I don't like pronouns.

24 A. Well, Greg LeMond continued to say, well,
 25 he's increasing his RPMs. That's why he's increasing

1 his efficiency. And I'm saying yeah, when you see him
 2 on television. So this went on for two or three
 3 minutes, you know, and so LeMond came back and said,
 4 well, how do you explain his efficiency? I said,
 5 well, again, he's increasing his efficiency, I think
 6 it's because of increased slow twitch, but I don't
 7 know. I mean, just like I said in the conference to
 8 you guys, I don't know exactly what the mechanisms are
 9 for his improved efficiency. I have a hypothesis
 10 based on other published studies I've done on many
 11 competitive bicyclists doing direct measurements.

12 Anyway, so he just wasn't getting what I
 13 was saying and we were obviously at an impasse as to
 14 all that. And then, you know, then eventually his
 15 wife and some other individuals caught up with us in
 16 the middle of the room and they were trying to usher
 17 him out to take them to lunch and we walked together
 18 through the conference room and went into the lobby
 19 and took an elevator up to the river walk. You know,
 20 this was in San Antonio. And I was trying to get
 21 home, get to my car and get home, and other people
 22 were trying to get him to lunch, and he was very much
 23 intent on telling me, you know, but how do you explain
 24 it, what's going on here and these things. You know,
 25 that was the nuts and bolts of the conversation.

1 Q. Okay. What I would like to do, let's have
 2 Respondents' Exhibit 25. And the point is I'm just
 3 going to go through like two or three pages with you,
 4 because I think they -- the panel may hear from
 5 Mr. Walsh later, which by the way, I don't know if the
 6 panel knew this, but Greg LeMond has been shot.

7 A. Yes.

8 Q. With a gun?

9 A. Right.

10 Q. That's usually how you're shot. It said
 11 toward the end of his career -- I mean, some of
 12 this -- you've got some true statements in here. It
 13 says LeMond fell victim to --

14 ARBITRATOR CHERNICK: What page are you
 15 on?

16 MS. BLUE: I'm on page -- mine shows 750.

17 MR. TILLOTSON: It's page 1527.

18 MS. BLUE: 1527.

19 ARBITRATOR FAULKNER: 1527. Wait a
 20 second until we get there. Okay.

21 Q. (BY MS. BLUE) I want to just bring this up,
 22 because you met Greg LeMond before the San Antonio
 23 conference or you had a relationship with him?

24 A. Yes.

25 Q. Well, let's just say -- excuse me, I'm sorry.

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1 It says toward the end of his career LeMond fell
 2 victim to mitochondrial --
 3 A. Mitochondrial.
 4 Q. Mitochondrial myopathy, a degenerative muscle
 5 disease that drains his strength. Given his
 6 ever-growing speed of his competitors he was losing
 7 ground. And I bring that up just because you had a --
 8 you knew of Greg or talked to him before the San
 9 Antonio meeting. How was that relationship? How did
 10 that come about?
 11 A. Well, he -- he participated -- Greg LeMond
 12 participated in a symposium at one of the annual
 13 meetings of the American College of Sports Medicine.
 14 I believe it was in the early '90s in Minneapolis, his
 15 home state and town. And, you know, of course he's
 16 well respected as a bicyclist. And during this
 17 symposium that was organized by Ed Burk, Greg
 18 discussed some of his bicycling, but I think the focus
 19 was also on his supposed mitochondrial disease, which
 20 he claimed was due to a -- the hunting accident where
 21 he was shot by his brother-in-law accidentally.
 22 Q. Somebody thought he was a deer?
 23 A. I think that was the case. It was a deer
 24 hunting accident in the woods and his brother-in-law
 25 shot him, and so he -- you know, he had a number of

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1 lead pellets that still were in the body, quite a few,
 2 including some in his heart sac and his pericardium
 3 and other organs and so, you know, he still has lead
 4 pellets. He believes that those lead pellets caused
 5 damage to some of his organs, especially his muscle,
 6 especially to the mitochondria producing powerhouse
 7 through some phenomena of lead poisoning throughout
 8 his body.
 9 The point is he presented at the American
 10 College of Sports Medicine meeting on this
 11 mitochondrial myopathy and wasn't very convincing
 12 because his -- the experts -- the physicians he had
 13 giving testimony to this disease were not the best in
 14 the country, were not experts, and there was a lot of
 15 suspicion as to he probably doesn't have mitochondrial
 16 disease, what is really going on here. So I was asked
 17 by Ed Burk to talk to Greg after the symposium.
 18 Q. Who is Ed Burk?
 19 A. Ed Burk is --
 20 Q. Just very briefly.
 21 A. Yeah, he's a Ph.D. He worked with Greg
 22 LeMond since -- since Greg was a teenager in
 23 bicycling. So he had a personal relationship with
 24 Greg. Ed Burk was a physiologist who worked at the
 25 U.S. Olympic Committee, worked with USA Cycling, was a

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1 graduate student with me in Dave Costill's lab when I
 2 got my master's.
 3 So Dr. Burk knew that I was in Texas here
 4 and I had a relationship with the group here at
 5 Southwestern University Medical School and Ron Haller,
 6 and they are the world's experts in diagnosing --
 7 diagnosing muscle disease, especially mitochondrial
 8 myopathy and doing it noninvasively, no muscle
 9 biopsies using magnetic resonance imaging.
 10 Dr. Haller heard LeMond's presentation
 11 and said please talk to him and let him know that we'd
 12 be more than willing to evaluate him because we don't
 13 think he got the correct diagnosis. We will give him
 14 a second opinion.
 15 So I approached LeMond with Ed Burk and
 16 just said, hey, you know, you were great at the
 17 meeting. These are the experts, they would like to --
 18 and the conversation was maybe a two-minute,
 19 three-minute conversation. LeMond's mind was set that
 20 he already knows he has this disease mitochondrial
 21 myopathy. He's left the sport of cycling, he can't
 22 compete and he was -- he was just not open to a second
 23 opinion or any other discussion on it and so it was a
 24 very, very short conversation.
 25 Q. Okay. So the bottom line, you were trying to

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1 get him help if he wanted it at what -- at Dallas UT
 2 Southwestern?
 3 A. Yeah, right here in Dallas.
 4 Q. Okay. Let's go to now the
 5 misrepresentations. Some are little and some are more
 6 material, but what I'm looking for is -- no, next
 7 page. If you could blow this up.
 8 It says at the symposium LeMond nervously
 9 waited his turn, he's listening to you and we know who
 10 you are. Your talk, Eddie Coyle, was devoted to
 11 ergogenic aids and how supplement drinks can help
 12 athletes. I remember it as if it was yesterday. This
 13 is what Greg says. I asked myself whether he'd talk
 14 about performance enhancing substances. I knew what
 15 was going on in cycling and wondered what his opinion
 16 about steroids might be. Okay.
 17 While mentally rehearsing my own text I
 18 was listening to what Eddie was saying. At one point
 19 he said something about Lance, whose name appeared on
 20 the screen. I looked up and I heard you, Ed Coyle,
 21 say, I test Lance Armstrong. I know what I'm talking
 22 about.
 23 Did you say that?
 24 A. I might have said I test Lance Armstrong. I
 25 don't think -- I would never say I know what I'm

1 talking about.
 2 Q. Is that your style --
 3 A. I don't --
 4 Q. -- to talk like that, to say hey, I know what
 5 I'm talking about?
 6 A. Only to my children. No, that's not how I
 7 would give a public lecture.
 8 Q. Okay. As a matter of fact, when you made
 9 notes did you say that was incorrect, you never said
 10 that?
 11 A. Yes, I did. I wouldn't say that.
 12 Q. And then you've been conducting physiological
 13 tests; that's true, true?
 14 A. Yes.
 15 Q. More than ten years, true or false?
 16 A. False.
 17 Q. Okay. Next page.
 18 And, again, I just -- it's just little
 19 stuff that if Walsh had called you or asked you, would
 20 you have told him what was right and what was wrong?
 21 Would you go back to the other page of
 22 them. Right. I mean, little stuff like -- if you
 23 could -- screen was black and white. That's --
 24 obviously you can remember that. Was that right or
 25 was it colored?

1 A. First of all, I've never met Chris
 2 Carmichael, I've never spoken to Chris Carmichael,
 3 I've never exchanged information with Chris
 4 Carmichael. I would never have any reason to
 5 reference him. I've never referenced him. And I
 6 don't believe that this statement is correct, that he
 7 increased his efficiency because he increased his
 8 cadence, just the opposite I was saying.
 9 Q. Well, that's a pretty big representation,
 10 it's saying something you didn't say. That's not what
 11 you believed that the reason Lance was more efficient
 12 was because he pedals faster?
 13 A. Right.
 14 Q. Then it says -- what LeMond says, he says,
 15 oh, my God. LeMond's incredulous surprise is based on
 16 his knowledge of physiology and the precise impact of
 17 improved pedaling frequency. And then Greg goes on to
 18 say what he did.
 19 MS. BLUE: If you can go down, Lynn.
 20 Q. (BY MS. BLUE) So then he talks about what
 21 Greg was saying, what he recalled. He's talking about
 22 what you convinced him of. And then, you know, you
 23 said something very important. You said, and I want
 24 to make sure the panel heard, that Greg LeMond's wife
 25 was not within earshot; is that true?

1 A. No, it's the same slide, the same exact slide
 2 I showed you.
 3 Q. Okay. The first representation is oxygen,
 4 kept the status from the time Lance was 17, true or
 5 false?
 6 A. False.
 7 Q. Okay. It says Eddie Coyle calmly explained
 8 that the curve -- I'm sorry, that's not where I wanted
 9 to be. The mysterious curve -- let's go down -- yeah,
 10 this third curve. Again, it's a minor representation,
 11 but was that, in fact, the second curve?
 12 A. Right.
 13 Q. And again, this is what the French public or
 14 the French speakers are reading thinking that you said
 15 or did these things. It says Ed Coyle -- if you could
 16 go up -- Ed Coyle -- this is where I want -- then
 17 cited -- if you can yellow that -- then cited Chris
 18 Carmichael to whom -- who thought Lance's leap forward
 19 was due to efficiency of his pedaling. Did you ever
 20 say that?
 21 A. No.
 22 Q. Would that have been an absolute
 23 misrepresentation?
 24 A. Yes, that's an absolute misrepresentation.
 25 Q. Okay.

1 A. That's true.
 2 Q. And is that something you absolutely
 3 remember?
 4 A. Yes.
 5 Q. And then it says, following Greg's speech,
 6 many doctors gathered around Greg. Someone questions.
 7 Eddie Coyle was among them. Would you have been
 8 sitting there waiting to talk to Greg?
 9 A. No.
 10 Q. Positive about that?
 11 A. I was waiting for Mike Smith.
 12 Q. Okay.
 13 A. I mean --
 14 Q. If you'll go to the next page.
 15 Again, if a French reader reads this and
 16 they're trying to assess what Ed Coyle said about
 17 Lance Armstrong, what you believe, it says Ed Coyle,
 18 you're his doctor. Are you Lance Armstrong's doctor?
 19 A. No, I'm not Lance Armstrong's doctor.
 20 Q. Okay. And it says Kathy was in earshot.
 21 Never --
 22 MR. BREEN: You've got to go back just a
 23 little bit.
 24 MS. BLUE: I'm sorry, would you go back?
 25 Q. (BY MS. BLUE) It says -- and this is

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1 important. It says -- it says Kathy LeMond -- it's
 2 right -- it's -- it says you're his doctor, right?
 3 MR. BREEN: Next page.
 4 MS. BLUE: Next page?
 5 Q. (BY MS. BLUE) Oh, no, no, I'm sorry. It
 6 says Kathy LeMond remembers the end of the
 7 conversation. Is that possible if she's not within
 8 earshot?
 9 A. No.
 10 Q. Okay. And then I really want to focus on
 11 this. I mean, you know how you talk, right?
 12 A. Yes.
 13 Q. If somebody came in here and said Lisa Blue
 14 used a lot of idioms and she said it was cool and he
 15 was blown out of the water, I would be able to say,
 16 you know what, I don't like slang so I don't use it.
 17 You know how you talk and -- right?
 18 A. Right.
 19 Q. It says Eddie -- when Greg said to him you're
 20 his doctor, right, Eddie Coyle just answered, well, I
 21 can't explain it. And Greg then pressed on, why don't
 22 you ask Michele Ferrari? Eddie just asked, he's with
 23 Ferrari? Did you say that?
 24 A. No.
 25 Q. That's what I've heard, Greg replied. It was

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1 quite obvious, quite obvious, that you were completely
 2 stunned. Is that science or science fiction?
 3 A. That's a joke. That's ridiculous. I mean --
 4 Q. Why is that just totally ridiculous, totally
 5 a lie published in the Walsh book?
 6 A. I'm not sure why it's a lie.
 7 Q. No, I said --
 8 A. It's a lie. I mean, that statement never
 9 happened. He never -- he absolutely never said to me
 10 that Lance Armstrong was seeing Michele Ferrari,
 11 absolutely. So, I mean, then the next part of the
 12 sentence is Eddie was completely stunned, he went
 13 pale, and said that makes me sick. It's all he could
 14 add. Then he looked at the elevator, made one final
 15 comment, I feel like throwing up.
 16 Q. That would be you saying --
 17 A. That would be me saying, yeah.
 18 Q. Which by the way, in French it says I feel
 19 like I'm going to vomit.
 20 A. Oh, okay.
 21 Q. Do you talk like that, I feel like I'm going
 22 to throw up, I feel sick?
 23 A. No, I don't talk like that and I never
 24 announce when I'm going to throw up.
 25 Q. Any way this is true, any possible way that

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1 this --
 2 A. No.
 3 Q. -- David Walsh, who never talked to you, any
 4 possibility this could be true?
 5 A. It's an absolute lie that Greg LeMond said to
 6 me that Lance Armstrong is with Michele Ferrari.
 7 Q. Okay.
 8 A. It's just --
 9 ARBITRATOR CHERNICK: Before you go on to
 10 point three, can we take five minutes?
 11 MS. BLUE: Yes, and I'm really wrapping
 12 it up and I think I have maybe five minutes.
 13 ARBITRATOR CHERNICK: The pace is just
 14 getting to me. I've got to take a break.
 15 ARBITRATOR FAULKNER: We'll take a
 16 five-minute break.
 17 (Recess 10:12 to 10:27 a.m.)
 18 MR. TILLOTSON: With respect to
 19 scheduling, David Walsh is here, he's been here for a
 20 day. I just spoke with him regarding scheduling, and
 21 it would represent a rather extreme business and
 22 personal hardship to stay over the weekend to testify,
 23 to wait to testify on Monday and, therefore, I would
 24 request the panel -- and I know that after the
 25 conclusion of Dr. Coyle their last witness is Bill

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1 Stapleton and I would request that we be allowed to go
 2 out of order and put Mr. Walsh on today so we can
 3 finish him and he may go back to England. And I've
 4 outlined to Mr. Herman what my questioning of
 5 Mr. Walsh would be that I thought we could get done in
 6 an hour or so and Mr. Herman agreed that if I did what
 7 I said I was going to do in terms of the direct, that
 8 Mr. Walsh's time on the stand would be between two and
 9 two and a half hours. And I make this request because
 10 Mr. Walsh -- we have spoken to him about the
 11 possibility of staying over and he has business
 12 commitments to cover an arsenal football match and
 13 also personal commitments and doesn't think physically
 14 he could go home and come back to testify next Tuesday
 15 or Wednesday.
 16 ARBITRATOR FAULKNER: I think we have
 17 made that trip across the north Atlantic enough times
 18 to be familiar with it.
 19 MR. TILLOTSON: He also -- he came the
 20 week before for his deposition in New York, so I feel
 21 bad asking him to do it a third time. And also, I do
 22 want to make clear to the panel that we obviously
 23 contend Mr. Walsh's book gave us cause to begin an
 24 investigation, but we have not contended that the book
 25 in and of itself was our basis for the denial.

1 So to the extent that we are sponsoring
 2 allegations from that book, we have -- have or will
 3 put on evidence of what we did to confirm the evidence
 4 of those allegations outside of the book. I told that
 5 to Mr. Herman and, therefore, I don't -- he may have
 6 been under the misimpression that my direct was going
 7 to be rather lengthy of Mr. Walsh in recounting all
 8 the allegations of what people said, but I don't
 9 really intend to do that. So I would request at the
 10 conclusion of Dr. Coyle, whenever that is, in the
 11 abundance of timing and to ensure that Mr. Chernick
 12 makes his plane that we be allowed to go out of order
 13 and call Mr. Walsh to complete his testimony and start
 14 with their last witness.

15 ARBITRATOR FAULKNER: Do you all have
 16 any --

17 MR. BREEN: I do, Mr. Chairman. Of
 18 course, I can run down here in a second and grab
 19 Mr. Herman, but in the interest of time I can tell you
 20 that having already talked to him we do oppose that
 21 for a couple of reasons. One primary reason that we
 22 already brought up with the panel that has yet to be
 23 ruled on is whether Mr. Walsh should be allowed to
 24 testify at all in this case given the behavior of
 25 deliberately ignoring and now obstructing us from

1 cross-examine him with those documents, even if we get
 2 the permission from the British court, because he'll
 3 already have been rushed on and off here this
 4 afternoon before a ruling is made over there.

5 ARBITRATOR FAULKNER: Is Walsh available
 6 to come back at any other time next week or could he
 7 be available even sometime after that?

8 MR. TILLOTSON: Sure, he could.

9 ARBITRATOR FAULKNER: Okay.

10 MR. TILLOTSON: I don't know about next
 11 week per se. He's a sports writer. He's got a beat
 12 and he's got deadlines, so that's the only difficulty,
 13 but within the next two weeks could he be available --

14 ARBITRATOR LYON: Well, let me ask a
 15 question, Mr. Chairman.

16 ARBITRATOR FAULKNER: Sure, ask.

17 ARBITRATOR LYON: Why did you have him
 18 come this week anyway? You knew they were going to
 19 take up the whole week.

20 MR. TILLOTSON: Well, if you recall at
 21 the beginning he said three days for his case.

22 ARBITRATOR LYON: That's right, I'm
 23 sorry.

24 MR. TILLOTSON: And I anticipated that we
 25 would probably have Friday to put on some witnesses,

1 being able to use material evidence and documents to
 2 cross-examine not only him, but people they're
 3 bringing in here that he took statements from that
 4 contradict positions they're taking in front of the
 5 panel. Those are two separate issues related to
 6 Mr. Walsh. We haven't resolved that yet. Apparently
 7 right now they're fighting in Great Britain

8 ARBITRATOR FAULKNER: I was going to ask,
 9 what's the status of the decision --

10 MR. TILLOTSON: It was delayed until 2
 11 p.m. British time, so --

12 ARBITRATOR FAULKNER: Six hour
 13 difference.

14 MR. TILLOTSON: Yeah. So it may have
 15 been resolved, but I haven't received an e-mail from
 16 them.

17 MR. TILLOTSON: So it may still be
 18 ongoing or may have just been resolved. We just don't
 19 know --

20 MR. BREEN: So in and of itself, despite
 21 these objections that we have, there's another
 22 fundamental problem here, not to use a colloquialism,
 23 but if Mr. Walsh is allowed to testify here and then
 24 leaves, then trying to close the barn door after he's
 25 gone doesn't do much good because we won't be able to

1 which still could be a possibility given the way
 2 things are going. And he was the most problematic
 3 about scheduling, so I asked him to come -- actually,
 4 I asked all the witnesses to be ready to testify
 5 Thursday or Friday just in case that I could control
 6 events. He was one who could come. So I had
 7 anticipated possibly starting my case with him since
 8 that's the book, so I had him around for Friday.
 9 That's -- that was my thinking.

10 ARBITRATOR LYON: Okay. Is his position
 11 still that he won't allow cross-examination with his
 12 documents?

13 MR. BREEN: It is. That's what they're
 14 taking the position in the British court.

15 MR. TILLOTSON: Well, his position is
 16 that the documents produced by him in the UK
 17 proceeding should not be turned over to the possession
 18 of Mr. Armstrong's American lawyers and he has
 19 declined up until now to answer questions regarding
 20 those documents. I can ask him if he's prepared, if
 21 they have those documents -- well, he's told me that
 22 he may take the same position he took in his
 23 deposition.

24 ARBITRATOR FAULKNER: Okay. Gentlemen,
 25 do we want to chat a little bit?

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1 ARBITRATOR CHERNICK: Why don't we get
 2 Dr. Coyle done.
 3 ARBITRATOR LYON: Why don't we finish
 4 Dr. Coyle. We're going to have lunch here supposedly
 5 at 11:30. That will give us time to talk about this
 6 issue.
 7 ARBITRATOR FAULKNER: Because I'm looking
 8 from my notes from our last conversation. I don't see
 9 them right here. I may have left them upstairs. So
 10 let's finish Dr. Coyle and then we'll address that.
 11 MR. BREEN: Thank you, Mr. Chairman.
 12 ARBITRATOR FAULKNER: Okay, Dr. Coyle.
 13 MS. BLUE: May I proceed?
 14 ARBITRATOR FAULKNER: Please proceed.
 15 Q. (BY MS. BLUE) Dr. Coyle, did you see the
 16 movie that was played in front of the panel about
 17 Lance?
 18 A. Yes.
 19 Q. Had you seen it before?
 20 A. Parts of it, not the whole thing.
 21 Q. Did you happen to hear -- I keep thinking
 22 about the statement. In the movie it said Lance
 23 Armstrong is the most tested athlete on the planet.
 24 Do you remember hearing that?
 25 A. Yes.

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1 Q. Is that common knowledge? Have you seen it
 2 before in articles?
 3 A. Yes.
 4 Q. Okay. Now I want to turn to our last and
 5 final point, and that is your conversation with the
 6 SCA lawyer, Chris Compton.
 7 And with the panel's permission, if we
 8 could put up Exhibit 123, and I would offer
 9 Exhibit 123 into evidence and give defense counsel a
 10 copy and the panel members. Oh, I'm sorry, it doesn't
 11 say 123 on there.
 12 ARBITRATOR FAULKNER: We will write it.
 13 Q. (BY MS. BLUE) Do you recognize this e-mail?
 14 A. Yes.
 15 Q. Okay. I note that you've been here for a
 16 couple of days, everybody can see that. Were you here
 17 when Joe Longley, the insurance lawyer, testified?
 18 A. Yes.
 19 Q. Mr. Longley said something. He said that SCA
 20 was just out to get dirt on Lance. Do you remember
 21 that?
 22 A. Yes, I do.
 23 Q. I want you to keep that comment in mind. And
 24 let's turn to this e-mail. Do you know Chris Compton,
 25 do you know who he is now?

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1 A. Yes.
 2 Q. He is an attorney that works for SCA, true?
 3 A. Yes.
 4 Q. Hattie Coffman, who is that?
 5 A. She's my administrative assistant.
 6 Q. Okay. It says the conversation re is Chris
 7 Compton. Ed -- that would be you, correct? Chris
 8 Compton called from SCA promotion, here is their
 9 number, re: Lance Armstrong.
 10 Did you at some time on or after
 11 January 4, 2005, come to discover that Chris Compton
 12 was trying to get in touch with you?
 13 A. Yes.
 14 Q. You were living in Austin?
 15 A. Yes.
 16 Q. Did you call Chris Compton back?
 17 A. Yes.
 18 Q. Would you look at the panel and tell the
 19 panel about your conversation with Chris Compton? He
 20 called you up and said hi?
 21 A. Yes. I'm not sure if -- I mean, I received a
 22 phone message. You know, I returned a call not really
 23 knowing what it was about, just regarding Lance
 24 Armstrong. I didn't even know what SCA was or -- so I
 25 returned the call or -- I assume I returned the call

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1 and, you know, he said well, you know, we would like
 2 to retain you -- I'm sorry. He -- I don't recall the
 3 exact wording. There was something to the effect that
 4 we would like you to serve as an expert or witness to
 5 testify to the fact that Lance Armstrong could not
 6 have won the Tour de France without the use of
 7 performance enhancing drugs.
 8 Q. Okay. Hold on. Say that one more time.
 9 What did Mr. Compton want you to testify to, that
 10 Lance Armstrong couldn't do what?
 11 A. Could not have won the Tour de France without
 12 the use of performance enhancing drugs.
 13 Q. All right. And what did you say when
 14 Mr. Compton said I want you to testify that Lance
 15 Armstrong could not have won without a performance --
 16 A. Without the use of performance enhancing
 17 drugs.
 18 Q. Right, okay. What did you say?
 19 A. Well, I was just thinking there for a minute,
 20 who is this and what's this call about? I was -- I
 21 wasn't prepared for it and didn't know the background,
 22 and I said, well, you know --
 23 Q. Were you kind of stunned?
 24 A. I guess. Not -- yeah, a bit. I mean, I was
 25 just trying to catch up with what was going on.

1 Q. Okay.

2 A. And so I -- I said, well, you know, we
3 have -- you know, I've been testing Lance and we have
4 data on him over the years and -- yeah, he said yes,
5 sir, and he was very nervous. And I said, well, you
6 know, we have been testing him and I think it's
7 perfectly possible that he's won the Tour de France
8 without using performance enhancing drugs, that we
9 have shown, you know, he's improved tremendously over
10 those years. And I don't believe if I then said -- it
11 became obvious that I would not serve their purposes.
12 And essentially he said, well, I guess you can't serve
13 and you won't serve to that point or something. I
14 don't recall the end point. It was very awkward, you
15 know. And he said, well, thank you, goodbye.

16 Q. Looking back today, Dr. Coyle, you
17 heard Dr. -- I mean, Mr. Longley say that what SCA was
18 doing was just looking for dirt on Lance Armstrong.
19 Looking back now, is that -- do you think that's what
20 they were doing with you, looking for dirt on Lance
21 Armstrong?

22 A. Well, Mr. Compton called me up and had the
23 presumption that Lance Armstrong was cheating and he
24 said, we would like you to be an expert or a witness
25 to the fact that Lance Armstrong could not win the

1 Q. As a matter of fact, you've been sitting
2 here, you've heard SCA, that they relied on some of
3 the things that Mr. Walsh wrote, correct?

4 A. Yes.

5 Q. If SCA lawyers had wanted to talk to you and
6 said, look, we are trying to decide whether or not we
7 should pay this claim, would you have answered their
8 questions and told them that there were some gross
9 false misrepresentations in this book?

10 A. If they would have asked me, yes. I didn't
11 know about the book until -- or my quotes in there
12 until these proceedings.

13 MS. BLUE: All right, Dr. Coyle, and
14 thank you very much for coming. And members of the
15 panel, we will pass the witness.

16 ARBITRATOR FAULKNER: Mr. Tillotson or
17 Mr. Towns?

18 MR. TILLOTSON: Mr. Towns is going to
19 examine Dr. Coyle.

20 CROSS EXAMINATION

21 BY MR. TOWNS:

22 Q. Thank you, Dr. Coyle. First, I want to talk
23 a little bit -- in fairness, it hasn't just been SCA
24 that's criticized your report in the Journal of
25 Applied Physiology, has it?

1 Tour de France without the use of performance
2 enhancing drugs.

3 Q. So he said we want you to be a witness to say
4 that, right?

5 A. I'm not sure if he used the word witness or
6 expert.

7 Q. We want you to say it, in other words,
8 whether it's a witness or an expert or a testifier?

9 A. Yes.

10 Q. Okay. But that was the gist; is that's what
11 they wanted you to say?

12 A. That was clear. Whatever his exact words
13 were, witness or expert, that message was clear to me.

14 Q. So SCA didn't call up Dr. Ed Coyle and say,
15 hey, look, we are really trying to make a fair
16 determination about whether we should pay this claim,
17 we just want to know what you think? They didn't do
18 that, did they?

19 A. No.

20 Q. They said, we want you to say these things
21 about Lance Armstrong, which did you feel in good
22 conscience you could?

23 A. I didn't think they were correct, so I
24 wouldn't even consider it in good conscience. I mean,
25 it just never crossed my mind.

1 A. It hasn't been just SCA. Well, there have
2 been two letters to the editor in the Journal of
3 Applied Physiology.

4 Q. And those letters to the editor too shared
5 criticisms of your work that was published -- I'm
6 going to call it as the JAP article if that's okay
7 with you?

8 A. Correct.

9 Q. So there have been a couple of letters to the
10 editor at the Journal of Applied Physiology regarding
11 the JAP article, and those letters to the editor have
12 been critical, correct?

13 A. Correct.

14 Q. And yesterday we heard Dr. Kearney testify as
15 an expert in this matter for Mr. Armstrong, and he,
16 too, said that he respected you as a colleague, but
17 that he had criticisms of your work, correct?

18 A. Correct.

19 Q. So it's a little bit unfair to characterize
20 SCA as the only people that have criticized the JAP
21 article, correct?

22 A. Correct.

23 Q. Now, one of the things that I wanted to touch
24 on before we get into the article a little bit more is
25 the conversation that you had with Chris Compton with

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1 SCA. You've testified as an expert in other matters,
2 correct?
3 A. Yes.
4 Q. And you've been retained as an expert in
5 other matters where your testimony wasn't even needed,
6 correct?
7 A. Well, I'm not sure what retained means.
8 Q. People have consulted with you about cases
9 that never actually developed, correct?
10 A. No.
11 Q. Okay. Well, when -- in those situations,
12 then, when you have been retained as a testifying
13 expert, in the introductory phone call a lawyer
14 generally explains the subject matter on which they're
15 seeking expert testimony, right?
16 A. (Nods head.)
17 Q. And in this case, a little over a year ago,
18 you said you had such an introductory phone call with
19 Chris Compton, right?
20 A. Right.
21 Q. And you were a little off balance in the
22 beginning because you didn't really even know what the
23 call was about, fair?
24 A. Right.
25 Q. And in that conversation, are you certain

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1 that Mr. Compton didn't say we need testimony on
2 whether Lance Armstrong can succeed without
3 performance enhancing drugs?
4 A. Yes, I am certain.
5 Q. Okay. And if there was contradictory
6 testimony, that's just a dispute between what you
7 recall and what Mr. Compton might recall, correct?
8 A. If there's contradicting testimony from
9 Mr. Compton you're saying?
10 Q. Yes.
11 A. I guess -- I guess so, yes.
12 Q. Okay. Fair enough.
13 Now, you talked a little bit about the
14 peer review method for the Journal of Applied
15 Physiology, and when an article is submitted, it goes
16 before the editorial board for peer review, correct?
17 A. Correct.
18 Q. And you, in fact, are on the editorial board,
19 right?
20 A. Correct.
21 Q. And the peer review for the JAP article was
22 about six weeks; is that about right?
23 A. I don't recall. I mean, it's listed in
24 there. You can calculate, because it dates the -- the
25 date it was submitted and the date it was accepted.

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1 Q. Okay. And that is -- if we are looking --
2 and if you would like to look, it's there in front of
3 you as Respondents' Exhibit 33, which is in a blue
4 volume probably --
5 A. Okay. I have the article here.
6 Q. Okay. If we look on the first page --
7 actually, there's a cover page, but the first page of
8 the actual article shows that it was submitted
9 February 22nd and then accepted on March 10th,
10 correct?
11 A. Right.
12 Q. So how much time -- how much time was this
13 actually peer reviewed?
14 A. That's about three and a half, four weeks.
15 Q. Okay. So even shorter than the amount I
16 would have calculated. Thank you. Now, that's a
17 relatively short amount of time for a peer review,
18 isn't it?
19 A. Not really.
20 Q. Okay.
21 A. I should add that, you know, I am a member of
22 the editorial board for Journal of Applied Physiology,
23 you know, as are -- if you look at the list, they
24 publish it in the cover about maybe 30 other
25 individuals worldwide. I am not a section editor.

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1 The section editor is the individual who actually
2 makes the decision on who the reviewers are. So I
3 have no -- when I submit an article to the Journal of
4 Applied Physiology, I have no impact on the review
5 process any more than an author with no affiliation
6 with the journal would have.
7 And I should also point out that as an
8 editorial board member of the Journal of Applied
9 Physiology, we asked reviewers to review their
10 manuscripts within two weeks, three weeks, and get the
11 reviews back in. So the Journal of Applied Physiology
12 has a much faster turnaround than you would see in
13 other journals, especially if you're using other
14 exercise physiology and sports medicine journals, like
15 Medicine & Science and Sports & Exercise, which I am
16 on the editorial board, like the International Journal
17 of Sports Medicine of which I was the co-editor in
18 chief for a number of years.
19 So the Journal of Applied Physiology is
20 probably faster than the average turnaround, so I
21 think we have to -- I think your numbers need to
22 reflect Journal of Applied Physiology, not in general
23 scientific articles.
24 Q. Okay, thank you for that clarification. Now,
25 as I understand it, your testimony or what you were

1 retained by the claimants for is -- if you look at it
 2 in the broad sense is to explain how Lance Armstrong
 3 could win the Tour de France; is that right?
 4 A. Correct.
 5 Q. And you will agree with me, won't you, that
 6 there are a lot of variables that go into making up
 7 the physiology of an elite cyclist, correct?
 8 A. Yes.
 9 Q. There are also a lot of variables in
 10 determining who actually wins the Tour de France,
 11 right?
 12 A. Correct.
 13 Q. So we are not just talking about in terms of
 14 your testimony does Lance Armstrong have the
 15 physiology to compete in the Tour de France, which
 16 you, I think, believe he does, correct?
 17 A. Correct.
 18 Q. But also with that physiology, does it allow
 19 him to win, correct?
 20 A. Correct.
 21 Q. And in this case, does it allow him to win
 22 and does it explain how he won seven times in a row,
 23 right?
 24 A. Correct.
 25 Q. Okay. Now, you will agree with the testimony

1 population?
 2 A. No, that's compared to competitive
 3 bicyclists.
 4 Q. Okay. So in your formula you used data both
 5 from the bicycling community and the average
 6 population?
 7 A. Correct.
 8 Q. So without going back through it step by
 9 step, it would be difficult for us to determine which
 10 values you took from the average population and which
 11 you took from elite cyclists; is that fair?
 12 A. Correct.
 13 Q. Okay.
 14 A. But I can clarify that in 30 seconds if you
 15 want, but --
 16 Q. Truly, the mathematical model is not that --
 17 I want you to have a chance to say whatever you want
 18 and I'm sure Ms. Blue will give you a chance if it's
 19 important, but it's not to me anyway. So I hope you
 20 don't think I'm rude. I'm just trying to get through.
 21 Now, what we don't have in your
 22 mathematical model is comparisons to Mr. Armstrong's
 23 most direct rivals in the seven Tour de Frances that
 24 he's won, correct?
 25 A. His rivals during the seven Tour de Frances

1 of Dr. Kearney, won't you, that when we look at Lance
 2 Armstrong's physiology and we make assessments in
 3 terms of percentage, we are comparing that to what we
 4 know in general to the average population, right?
 5 A. The average population of whom, the American
 6 public, of competitive bicyclists, of the average
 7 values for former winners of the Tour de France?
 8 Those are all different values.
 9 Q. Okay. So when you gave us your percentage
 10 breakdowns in the formula that -- I would call it a
 11 probability chart, but I think you had another name
 12 for it, but you know what I'm talking about?
 13 A. Right, yes.
 14 Q. For instance, if he's one in 500, that's --
 15 that's a comparison to the average population,
 16 correct?
 17 A. No, that's a comparison to competitive
 18 bicyclists.
 19 Q. Okay. So among competitive bicyclists, your
 20 calculation is that Lance Armstrong is one in a
 21 billion?
 22 A. No, that would be against the general
 23 population.
 24 Q. Okay. So in your probability formula where
 25 we see one in 500, that's compared to the average

1 that he won, correct.
 2 Q. Okay. And just to maybe make my question
 3 more simple, we don't have data, for instance,
 4 physiological data, on Jan Ulrich on which we can make
 5 a comparison, correct?
 6 A. I don't have that data, no.
 7 Q. And Mr. Ulrich has finished second to
 8 Mr. Armstrong in a number of tours and I believe third
 9 this past year; is that your understanding?
 10 A. Correct. Although it's not like we have no
 11 information. I mean, there is some data out there.
 12 Remember, it's not just physiological data, you have
 13 the data of what his body weight is and you have
 14 implications as to what his body fat is and, you know,
 15 it may not be the most precise measurements, you know,
 16 but the comments have been that he's too heavy.
 17 ARBITRATOR LYON: What is his body
 18 weight?
 19 THE WITNESS: I don't know offhand.
 20 Q. (BY MR. TOWNS) Now --
 21 A. So, I mean, what I'm saying is those are not
 22 data that are published in scientific journals. That
 23 is supposedly common knowledge. That is quoted in
 24 every bicycling magazine as to if he wanted to improve
 25 what he would do is lose some body fat, lower his body

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1 weight, and why he's not able to accomplish that is
 2 open to question.
 3 Q. Okay. Now, what about Alex Vinokourov, do
 4 you have data on Alex Vinokourov?
 5 A. No.
 6 Q. Do you know who Mr. Vinokourov is?
 7 A. No.
 8 Q. If I represent to you that that's Jan
 9 Ulrich's teammate, does that mean anything to you?
 10 A. Not really.
 11 Q. Okay. And I take it, then, that you don't
 12 have access to Alex Vinokourov's data?
 13 A. No.
 14 Q. So when we make comparisons and we say can --
 15 or you say can Lance Armstrong win the Tour de France,
 16 you're making assumptions based on the population in
 17 general and values of cyclists that you've tested and
 18 that have been tested and published, correct?
 19 A. Correct.
 20 Q. You're not making that -- that opinion based
 21 on actual data from Lance Armstrong's competitors?
 22 A. Correct.
 23 Q. Okay. Now, when we also look at other
 24 variables, one of the things that has come up and you
 25 raised in your PowerPoint was technology; is that

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1 right?
 2 A. Correct.
 3 Q. And certainly we saw the Discovery video that
 4 showed many technological aspects of the cycling team
 5 which appear to a relative lay person to be somewhat
 6 advanced; is that fair to say?
 7 A. Yes.
 8 Q. Now, an interesting thing that came up and --
 9 is that the actual bike that Lance Armstrong and his
 10 team rides or, I guess, rode now is available off the
 11 rack, correct?
 12 A. I assume, if you say so, yes.
 13 Q. Well, do you recall seeing that in the video,
 14 the Trek guy saying we don't make custom bikes for the
 15 team, they're riding what's off the rack? Do you
 16 remember that?
 17 A. Yes.
 18 Q. And do you have any data that allows you to
 19 make comparisons in terms of aerodynamics to the bikes
 20 that the Discovery team or the Postal team rode versus
 21 their competitors on a year-by-year basis?
 22 A. Do I have direct data on a year-by-year basis
 23 of Discovery or Postal versus the other teams?
 24 Q. Yes, sir.
 25 A. No.

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1 Q. And that's not part of your equation in
 2 determining whether Mr. Armstrong could have won the
 3 seven Tour de Frances that he won, correct?
 4 A. Well, part of my equation is to win the Tour
 5 de France you can't have any weaknesses. You can't
 6 make any mistakes. And I've testified to the
 7 physiological improvements that I've seen Armstrong
 8 make where he has made sure he has no weaknesses. And
 9 his weakness early on was one aspect of his
 10 physiology, but -- and my assumption is that he's
 11 improved other weaknesses, be those aerodynamics or
 12 training or whatever, and that that's an important
 13 component to his success.
 14 So it is an assumption based on my
 15 observations and the physiology, improving his weakest
 16 link and not having any weaknesses, that the same --
 17 that the same principles that apply to aerodynamics,
 18 to team work, to the psychology. But, again, yes,
 19 that's an assumption which I don't have direct data
 20 on.
 21 Q. Okay. And I'm not trying to trick you or be
 22 unfair, I'm just trying to narrow down the exact
 23 comparisons we can make.
 24 A. Fair enough.
 25 Q. And although you may later or maybe you

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1 already have laughed at my level of scientific
 2 knowledge, eliminating variables to try to reach the
 3 data we can actually make a comparison on is a
 4 reasonable thing to do, isn't it?
 5 A. Yes, it is.
 6 Q. Okay. Now, one interesting thing or another
 7 interesting thing I saw in the video was that
 8 Mr. Armstrong said basically when he came back in '99,
 9 they hadn't paid a lot of attention to detail in terms
 10 of the equipment and the aerodynamic. Do you recall
 11 that?
 12 A. Yes.
 13 Q. And that -- I don't intend that to be a
 14 quote, but that's more or less what he said, right?
 15 A. Yes.
 16 Q. And he was able to win the '99 Tour de
 17 France, correct?
 18 A. Right.
 19 Q. So it is not necessarily the aerodynamics
 20 that have allowed him to win, but your testimony is
 21 that it has -- attention to those details have kept
 22 him from losing; is that a fair thing to say?
 23 A. Uh-huh.
 24 Q. And certainly not intended to indicate that
 25 no other riders spend time in a wind tunnel or has

1 a -- you know, an aerodynamic bike, right?
 2 A. Uh-huh.
 3 Q. All right. Now, Ms. Blue asked you, I
 4 believe, if anyone else had done the testing and had
 5 the data of Mr. Armstrong that you had. Do you recall
 6 that question?
 7 A. Not exactly.
 8 Q. Okay. And, again, I may be not repeating it
 9 exactly how it was said, but my understanding is that
 10 your response was no one has the data to the extent
 11 that you have on Mr. Armstrong?
 12 A. Yes. The context is nobody has the
 13 longitudinal data, that is the -- you know, the data
 14 over a number of years that was collected in very
 15 standard conditions in the laboratory with calibrated
 16 equipment and, therefore, you know, that's very valid
 17 and reliable data on one individual.
 18 Q. Okay. Now, you saw when Dr. Kearney
 19 testified that USA Cycling and USOC have also
 20 collected data on Mr. Armstrong, right?
 21 A. Yes.
 22 Q. And it would be fair to use -- well, let me
 23 put it this way, you don't have any particular
 24 difficulty with us looking at that data along with
 25 yours when we are looking at Mr. Armstrong's

1 physiology, do you?
 2 A. Do I have difficulty?
 3 Q. Yes, sir.
 4 A. Well, I don't have difficulty in reviewing
 5 it. You know, when you compare values from one
 6 laboratory to another, you always have to ask yourself
 7 do they use the exact same procedures and what are you
 8 really comparing here? Is it apples and apples or
 9 apples and oranges? So, I mean --
 10 Q. Is that important from a scientific
 11 standpoint that even the same procedure, it needs to
 12 be performed on the same equipment, for instance?
 13 A. Yes.
 14 Q. And it needs to be calibrated properly, I
 15 take it?
 16 A. Correct.
 17 Q. And if procedures are not performed on the
 18 same equipment or calibrations aren't done right, the
 19 conclusions aren't really reliable, are they?
 20 A. Well, the conclusions are conclusions. You
 21 just have more possible errors associated with them,
 22 so you've got to ask yourself how fine of a question
 23 is -- and the extent of the precision of your question
 24 and, therefore, your answer depends only on the
 25 precision of the tools you're using. So, again, it

1 depends. What are you looking for?
 2 Q. Okay. Now, taking a step back just a little
 3 bit, would you agree with what Dr. Kearney said
 4 yesterday that from the standpoint of endurance
 5 sports, the ability of a person to become elite in an
 6 endurance sport is primarily determined at birth?
 7 A. I wouldn't agree it's primary. Well, the
 8 word primary, what does that mean? Does that mean 51
 9 percent or 90 percent? I mean, it's always a
 10 combination of having a -- having genetics and
 11 therefore a natural head start and hard training or
 12 nurturing to fully develop those abilities. You know,
 13 that's the physiological component. And then also the
 14 mental component and not having -- not making dumb
 15 mistakes. All of those go into it. So I would say
 16 that the argument as to what's primary, you know, it's
 17 always genetics and training.
 18 If we were to talk about Armstrong, you
 19 know, I could show you data as to if he did no
 20 training, what might his values be. Those are
 21 predictions based on other studies I've done with key
 22 training top athletes and making comparisons to Lance.
 23 Q. Maybe I didn't ask the question in the way
 24 that I meant. What I'm really getting at is that a
 25 person of average genetics for endurance sports as

1 compared to someone with superior genetics as in
 2 Mr. Armstrong with equal volumes and all of the
 3 training being equal --
 4 A. Yes.
 5 Q. -- will never match Mr. Armstrong, will they?
 6 A. Correct.
 7 Q. And it wouldn't matter if they rode their
 8 bike in the snow uphill while Mr. Armstrong didn't,
 9 Mr. Armstrong is just always going to -- to be
 10 superior, assuming training volume is the same, to the
 11 person with the average genetics?
 12 A. Yes, assuming training volume is the same.
 13 Q. I agree. I mean, presumably if Mr. Armstrong
 14 went on the fried chicken diet or whatever, that at
 15 some level a really ambitious person could maybe match
 16 him?
 17 A. Right. And I think another way of looking at
 18 it is if Lance Armstrong never trained or touched a
 19 bicycle, an average high school student who trained
 20 hard for four or five years could beat him.
 21 Q. And the issue we are really getting at
 22 there --
 23 A. Or be competitive.
 24 Q. -- that's become interesting to me, it's not
 25 really the subject of this but it is interesting, is

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1 identification and selection of genetically gifted
 2 people at certain sports, right?
 3 A. Right.
 4 Q. And some countries are better at that than
 5 others, aren't they?
 6 A. Yes.
 7 Q. Now, I want to get back a little bit to the
 8 testing that you've done. As I understand it,
 9 Respondents' 33 contains the data from the five
 10 testing periods of tests you performed on
 11 Mr. Armstrong, correct?
 12 A. Correct.
 13 Q. And at your deposition you told me that all
 14 of the relevant data to those five testing periods
 15 were contained in this report and in -- distilled into
 16 table 2; is that right?
 17 A. Into the manuscript, into the manuscript,
 18 yes.
 19 Q. And then the manuscript, table 2 is intended
 20 to reflect the material that's contained in the
 21 manuscript in terms of the measurements that were
 22 taken in the various steps, right?
 23 A. Yes, some of the measurements, not all the
 24 measurements.
 25 Q. Okay. Were there measurements taken of

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1 Mr. Armstrong that are not reflected in table 2?
 2 A. Yes, there are measurements. For example, we
 3 reported his body weight when he was racing
 4 approximately at the 1999 Tour de France, and that's
 5 not listed in table 2. And that was approximately 72
 6 kilograms. If I look through here I might find a few
 7 more numbers that are discussed and so.
 8 Q. Let me just ask you this. For instance, we
 9 talked about heart size.
 10 A. Yes.
 11 Q. You've never actually tested Mr. Armstrong's
 12 heart size?
 13 A. Not directly, no.
 14 Q. And You heard yesterday Mr. Kearney said
 15 that as far as he knew, Mr. Armstrong's heart size had
 16 never been tested; you heard him say that, right?
 17 A. Yes.
 18 Q. Now, you mentioned today that you -- you
 19 believe that his heart had been measured in an EKG at
 20 the Cooper Aerobics Center, correct?
 21 A. Yes, not an EKG, but an echocardiogram, sound
 22 waves.
 23 Q. Have you actually seen that?
 24 A. I've seen the data from it, yes.
 25 Q. And is that something that -- that is in your

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1 possession?
 2 A. No.
 3 Q. How was it that you saw that?
 4 A. Lance had showed me some of the data from one
 5 of his files and I have seen the data reported in
 6 some -- something from Ken Cooper.
 7 Q. Do you recall when Lance showed you that?
 8 A. Somewhere in the early 1990s.
 9 Q. Now, Dr. Kearney certainly believed that
 10 heart size was a contributing factor in
 11 Mr. Armstrong's success, doesn't he?
 12 A. Yes.
 13 Q. But yet he had never seen the echocardiogram
 14 that you had seen, or at least that was his testimony,
 15 right?
 16 A. Yes.
 17 Q. I apologize, Dr. Coyle. Let me just ask you
 18 this. Have you ever had an opportunity to review
 19 Mr. Armstrong's medical records from the Indiana
 20 University hospital when he was there in the winter of
 21 1996?
 22 A. No.
 23 Q. Now, we also talked about heart rate,
 24 Mr. Armstrong's maximum heart rate. Do you recall
 25 that discussion with Ms. Blue?

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1 A. Yes.
 2 Q. And it was your opinion that Mr. Armstrong's
 3 maximum heart rate being in the 200 to 206 range was
 4 extraordinary, correct?
 5 A. Yes.
 6 Q. And you attribute that in part to his
 7 performance, right?
 8 A. Well, the opposite, I attribute part of his
 9 superior performance being due to having a higher
 10 heart rate. I don't attribute his higher heart rate
 11 being due to his training or to his performance.
 12 ARBITRATOR LYON: Say that again.
 13 A. I think having a higher heart rate, I
 14 attribute his improved performance being partly due --
 15 a small part of that superiority is due to him having
 16 a higher maximal heart rate, not -- I believe you
 17 phrased it him having a higher maximal heart rate was
 18 due to his performance is what you said. And it's
 19 not. I mean --
 20 Q. (BY MR. TOWNS) Let me try to ask it a more
 21 basic way. Do you find a relationship between his
 22 performance and his maximal heart rate?
 23 A. Well, I see that he has superior performance
 24 and he has a superior maximal heart rate, you know,
 25 superior -- somewhat superior to the average

1 competitive bicyclist his age and size, yes.
 2 Q. Now, I want to talk a little bit about what I
 3 will call a formula, and you probably scoff at that
 4 definition, but from the PowerPoint that you had up,
 5 and you had basically, as I understood it, a couple of
 6 different groupings of abilities that you attributed
 7 to Mr. Armstrong. And one was what you call
 8 performance VO2, correct?
 9 A. Yes.
 10 Q. And that includes lactate threshold?
 11 A. Yes.
 12 Q. Just real quick, how did you measure lactate
 13 on Mr. Armstrong in the lab?
 14 A. Well, we take a sample of blood, you know,
 15 either from the finger drop or a venous catheter and
 16 with that we take the drop of blood and we
 17 deproteinize, put into acid, and the lactate winds up
 18 going into the clear portion and we take that and
 19 measure it with the best method available, which is
 20 spectrophotometrically, using some enzymatic
 21 biochemicals.
 22 Q. Now, in that process did you account for
 23 plasma?
 24 A. Well, yes.
 25 Q. How is that done?

1 A. Well, when you take a blood sample, blood is
 2 composed plasma, the fluid portion, as well as the red
 3 blood cells. So if we take a drop of blood or one
 4 milliliter of blood, that entire milliliter of blood
 5 containing red blood cells and plasma is deproteinized
 6 or dissolved into the acid. So you're making a lactic
 7 acid both in plasma and in red blood cells and that's
 8 what blood is, plasma and red blood cells combined.
 9 Q. Now, I saw in one of the pictures in your
 10 PowerPoint what I would guess is an assistant or grad
 11 student or someone in a Don't Mess with Texas shirt.
 12 Do you know who that was in that picture?
 13 A. Yes, that was Doug Ellerton.
 14 Q. And is it fair to say that you didn't conduct
 15 all of the testing on Mr. Armstrong yourself, correct?
 16 A. Well, no, it's not fair. I mean, I was there
 17 supervising all the testing.
 18 Q. Okay. I guess to be more specific, you
 19 weren't the person that physically drew the blood on
 20 Mr. Armstrong each time?
 21 A. Well, if it's drawing blood from a venous
 22 catheter, I would be. If it's doing finger sticks,
 23 not necessarily.
 24 Q. And in that picture it appeared to me to be a
 25 finger stick.

1 A. Correct.
 2 Q. Other people would do that, correct?
 3 A. Yes.
 4 Q. Do you recall the names of any of the other
 5 grad assistants or students that were assisting you in
 6 these five Armstrong tests?
 7 A. Some.
 8 Q. And what were their names?
 9 A. Well, do you want them in chronological
 10 order?
 11 Q. However is convenient to you is fine with me.
 12 A. Oh, names like Donnell Deitrich was there
 13 when I did the post cancer work, which is the most
 14 sensitive. Jeff Horowitz. Now, are these people who
 15 were just hanging out in the laboratory or people who
 16 actually were part of my research team who did
 17 something productive?
 18 Q. Well, let's just leave it to who was
 19 productive. I heard you mention the name Chris
 20 Murphy.
 21 A. Chris Murphy was an undergraduate student.
 22 Q. I just heard you mention the name.
 23 A. Right. He didn't -- he didn't do any of the
 24 lab work. Jeff Horowitz, Paul Belo.
 25 Q. Paul Belo, okay. Now, let me ask you this,

1 when you're measuring the lactic acid and you're --
 2 I'm sorry, or lactate and you're accounting for the
 3 plasma, did that leave you with a value for
 4 hematocrit?
 5 A. No.
 6 Q. Did you ever test Mr. Armstrong's hematocrit?
 7 A. Not as part of these tests, but we do -- we
 8 have.
 9 Q. So you've tested Mr. Armstrong outside of
 10 these five tests?
 11 A. No. When you take a blood sample for lactic
 12 acid, which are these tests, you know, that -- that
 13 sample is used entirely to measure lactates. However,
 14 before the exercise protocol we would sometimes take a
 15 blood sample to measure hematocrit and hemoglobin, not
 16 routinely and not in all. It's just too much work and
 17 it's not very interesting. But we do have at least
 18 two values on Mr. Armstrong throughout the years.
 19 Q. What are these values?
 20 A. I don't recall what the exact values were,
 21 but the values for hematocrit were somewhere between
 22 42 and 46. And those are -- you know, those are
 23 resting blood samples.
 24 Q. Now, the hematocrit levels are not reported
 25 in your work, correct?

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1 A. Right.
 2 Q. And in fairness, you haven't provided us any
 3 of the backup that would show hematocrit, right?
 4 A. I'm not sure what you mean by backup.
 5 Q. I mean, you haven't shown us any forms or any
 6 paperwork when you were testing Mr. Armstrong's
 7 hematocrit, what those levels were, correct?
 8 A. Right.
 9 Q. Now, do you agree that -- well, let me go
 10 back to your formula. The -- the -- I forget what you
 11 called it, the performance VO2.
 12 A. Uh-huh.
 13 Q. VO2 max is used often in endurance sports as
 14 an indicator of performance, correct?
 15 A. Correct.
 16 Q. And it appears to me, and again you tell me
 17 if this is true or not, that cyclists tend to hang on
 18 a VO2 number considerably.
 19 A. Old time cyclists, cyclists who were raised
 20 in the eras, you know, of the 1970s and '80s, when
 21 that was one of the few laboratory tests. More modern
 22 cyclists talk about their lactate threshold. And now
 23 cyclists who have watt meters talk about watts. So, I
 24 mean, it depends upon what the latest gizmo was when
 25 they were introduced to the sport and numbers were

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1 told to them relating to their performance. So it
 2 evolves.
 3 Q. Now, in your opinion of explaining if
 4 Mr. Armstrong can win the Tour de France, you looked
 5 at performance VO2, the amount of power he can
 6 generate, correct?
 7 A. Well, what -- I'm not sure what you mean
 8 "looked at".
 9 Q. Well, part of your opinion is that he has
 10 exceptional values that allow him to develop the
 11 performance VO2, the engine I think you called it,
 12 beyond the average; is that fair?
 13 A. Yes.
 14 Q. And then there's what you call the
 15 transmission and that's the efficiency data, correct?
 16 A. Yes.
 17 Q. And your opinion is that a combination of
 18 those two things showed an 18 percent increase over
 19 the period of time that you tested, right?
 20 A. In addition to reduced body weight, yes.
 21 Q. Okay. Now, reduced body weight factors into
 22 power, right? I mean, as I understand it, it's weight
 23 the power is what you're looking at?
 24 A. Right, it's another expression of power.
 25 Q. And it's not unique to cycling, right? I

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1 mean, cars, aircraft, lots of things are judged on
 2 that relationship, right?
 3 A. Yes.
 4 Q. Now, you were here yesterday when
 5 Mr. Armstrong told us that he believed weight was the
 6 most significant factor in performance in cycling. Do
 7 you remember hearing that?
 8 A. Yes.
 9 Q. It was his opinion, in fact, that suffering
 10 some loss of power to gain a loss of weight was
 11 actually still a benefit. Do you remember him saying
 12 that?
 13 A. Yes.
 14 Q. And do you agree with that?
 15 A. Yes.
 16 Q. Okay. So when we are looking at
 17 Mr. Armstrong's performance, it's important to look at
 18 what his weight was at the time that he was
 19 performing, correct?
 20 A. Yes. Or in his performance of the Tour de
 21 France, and -- which is largely riding uphill. If
 22 you're looking at his performance when riding a time
 23 trail on the level, body weight is not as important.
 24 So what I'm saying is assuming that in the Tour de
 25 France the most important aspect is riding up the

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1 steep mountains, which is where -- you know, where
 2 Armstrong has also excelled both riding on the flat
 3 and riding on steep mountains, he hasn't had a
 4 weakness.
 5 Q. Okay. Now, if we could look again at
 6 table 2, Respondents' 33, one of the things you showed
 7 us in your PowerPoint looking at efficiency is that
 8 there is a nice straight line in gross efficiency from
 9 the first testing period to the last, correct?
 10 A. Correct.
 11 Q. And I think it was your testimony that that
 12 nice straight line was -- in those data points removes
 13 some of the skepticism and doubt about which way the
 14 line should go, right?
 15 A. Correct.
 16 Q. Now, if we look at Mr. Armstrong's uptake in
 17 VO2 in oxygen in terms of liters from the beginning
 18 testing period to the end, what is that line doing?
 19 A. Well, the first value we see is 5.56 liters
 20 per minute and the last value is 5.70, and that value
 21 is -- is increasing by a very small amount.
 22 Q. Okay. And if we look at the 1993 period as
 23 compared to the '92 period, what has happened in the
 24 two '93 testing periods as compared to '92?
 25 A. Can you say that again, please, the two '93

1 testing periods?
 2 Q. Yes, January of '93 and September of '93 as
 3 compared to your first testing period, what's that
 4 line doing?
 5 A. Well, it's roughly flat. I mean, all values
 6 are between 4.52 and 4.7, so those are similar values.
 7 Q. And maximal O2 uptake, liters per minute?
 8 A. Yes.
 9 ARBITRATOR CHERNICK: Those are not the
 10 numbers that are on the chart. Are you looking at the
 11 same thing?
 12 THE WITNESS: Oh, I'm sorry, I'm looking
 13 at the values -- excuse me, the values that are going
 14 from 5.56 to 6.10. So that's increasing a bit, and,
 15 of course, the highest value, 6.10, in September of
 16 '93 is, you know, the point after he won the world
 17 championships and that would correspond to the -- the
 18 peak in his training.
 19 Q. Okay. Well, I want to talk about that theory
 20 in a moment, but just looking at the data and just
 21 looking at trend lines, the September '93 period over
 22 the original testing period, if you drew that in a
 23 line, it would be -- it would be headed up, correct?
 24 A. It would be headed up slightly, yes.
 25 Q. Okay. And similar to the line that we see in

1 variable, and we look at his O2 uptake in liters,
 2 that's the maximum value in terms of uptake that we
 3 see and the lowest body weight over the five testing
 4 periods, correct?
 5 A. Over the five testing periods, yes.
 6 Q. And if we look at September of '93, the
 7 August 1997 and the November 1999 testing periods, if
 8 we look at body weight, what's that line doing?
 9 A. Can I make just a point? I mean, you're
 10 introducing Armstrong's testimony and opinion into
 11 here where I'm saying yes, and I would like to qualify
 12 my interpretation. I don't fully agree with
 13 Armstrong, or at least the way you are interpreting
 14 Armstrong. And may I just make that clarification so
 15 it doesn't confuse us later?
 16 Q. Certainly. You think Mr. Armstrong -- if I
 17 understand what you're saying now, you want to clarify
 18 that you think Mr. Armstrong is incorrect in his
 19 assessment that weight is the most important variable?
 20 A. No, I think we are confused as to what we are
 21 talking about. I just want to make sure that I'm not
 22 adding to that confusion. That is when -- I would
 23 agree -- if Lance Armstrong said yes, body weight is
 24 the most important variable, let's put that into
 25 context.

1 your gross efficiency plot, the -- the O2 liter line
 2 would be -- there wouldn't be any doubt about which
 3 way it was headed in those three points, correct?
 4 A. Correct.
 5 Q. Now, if we look in those same three testing
 6 periods for Mr. Armstrong's body weight, what is that
 7 line doing?
 8 A. That line is coming down.
 9 Q. Okay. By just under four kilograms, correct?
 10 A. Yes.
 11 Q. And if we look at the power in the maximum of
 12 five liters a minute at the bottom, we don't have data
 13 for September of '93, correct?
 14 A. Correct.
 15 Q. Now, why isn't there data for September of
 16 '93 on power?
 17 A. I'm not exactly sure. It's most likely that
 18 we didn't use the bicycle ergometer, that is the
 19 Monarch model 819 that is our standard ergometer for
 20 reporting accurate powers.
 21 Q. Okay. Now, if we take September of '93, when
 22 he won the world championships, and we just look at --
 23 we don't have power and we don't efficiency data, I
 24 understand, but if we are just looking at body weight,
 25 what Mr. Armstrong considers to be the most important

1 Well, of the variables that he has the
 2 power to change, okay, what's the most important thing
 3 to change if you want to win the Tour de France? You
 4 reduce your body weight. That's the most important
 5 variable that he now has control over. Now, that
 6 doesn't mean it's the -- it's the most important
 7 variable ever. That's the only thing that he has the
 8 ability to control, because he does not have the
 9 ability to enlarge his heart, for example, besides
 10 training and all that he's done to do that.
 11 So we have to put in context, I think,
 12 the -- what he was saying. And when I say yes, I
 13 would agree with that, but it's in the context of what
 14 he now has ability to -- to change in a way that would
 15 benefit his performance. It in itself is not the most
 16 important factor for winning the Tour de France,
 17 because if anybody believed that, you can take the
 18 smallest kid you can find and say you win. That is
 19 ridiculous.
 20 Q. Okay.
 21 A. So, I mean, let's just...
 22 Q. Thank you, Dr. Coyle. Now, if we look at the
 23 body weight in the September 1993 testing period
 24 through the November 1999 testing period, what's that
 25 line doing?

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1 A. That was September '93 through '99?
 2 Q. Yes.
 3 A. Well, the line goes up and then it
 4 stabilizes.
 5 Q. Okay. There is -- it's definitely headed up,
 6 correct?
 7 A. Well, it's headed up from '93 to '97, but not
 8 from '97 to '99.
 9 Q. It's still trending up between '97 and '99,
 10 although marginally, correct?
 11 A. Well, I wouldn't call that optimum.
 12 Q. Okay. But '99 --
 13 A. That's the amount of this 200 milliliters.
 14 Q. Okay. But you agree with me that November of
 15 '99 as compared directly over September of '93, the
 16 trend is still up, correct?
 17 A. The value is up, yes.
 18 Q. And, in fact, in the November '99 weight,
 19 that's the highest weight we see of the five testing
 20 periods you conducted, correct?
 21 A. Yes.
 22 Q. Now, in fairness to Mr. Armstrong, it's my
 23 understanding that his August 1997 tests were
 24 conducted with you to evaluate his physiological state
 25 in terms of evaluating, coming back and trying cycling

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1 again; is that fair?
 2 A. Yes, correct.
 3 Q. And he had just -- he had been treated for
 4 cancer and he was recovering and had not had an
 5 opportunity, as I understand it, to train much prior
 6 to August?
 7 A. That's not true.
 8 Q. He had been training?
 9 A. Yes.
 10 Q. What's your understanding of how long he had
 11 been training prior to the August 1997 testing?
 12 A. Well, he -- I know exactly the training he
 13 was doing for the two weeks before.
 14 Q. Okay.
 15 A. Because he called me up and he told me he
 16 wanted to be tested and he told me his training had
 17 been sporadic, and so I -- I mentioned to him that in
 18 order for me to best interpret his testing, I would
 19 like him to do X amount of training for two weeks. So
 20 he trained six days a week, two weeks, going out there
 21 for three or four hours a day, heart rates up to a
 22 certain point and he did that before he came to see me
 23 because I wanted to give him an even dose of training
 24 that would allow me to best interpret his results.
 25 When he then came in, he wrote down for

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1 me what his training had been. Of course, I knew it
 2 was for those two weeks before. He followed exactly
 3 what I asked him to and then he wrote down for me what
 4 his training had been for essentially since he began
 5 training again after chemotherapy.
 6 Q. Okay. So within, you know, a couple of
 7 months of training, six to eight weeks I think you
 8 said, his body weight in the August '97 testing period
 9 was 79.5, correct?
 10 A. Yes.
 11 Q. All right. And his O2 uptake at that time
 12 was 5.29?
 13 A. Correct.
 14 Q. Now, one of the things in your study that you
 15 account for the increased performance of Mr. Armstrong
 16 was a -- a reported body weight of 72 kilograms. Do
 17 you recall that?
 18 A. Yes.
 19 Q. And it's in your paper here, right?
 20 A. Yes, approximately 72 kilograms.
 21 Q. Okay. Well, if we look on Respondents' 33 at
 22 page 2193, which happens to be the same page as the
 23 table, in the first full paragraph on the right
 24 column about midway through begins a sentence,
 25 laboratory measures of the subject in our study. Do

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1 you see that? It says laboratory measures of the
 2 subject in our study were not made soon after the Tour
 3 de France; however, with conservative assumption that
 4 VO2 max was at least 6.1 liters a minute and given his
 5 reported body weight of 72 kilograms, right?
 6 A. Right.
 7 Q. So there you're using 72 as the number that
 8 you're factoring in to estimate VO2 max, right?
 9 A. Yes.
 10 Q. And it was reported to you that Mr. Armstrong
 11 was racing at 72 kilograms, right?
 12 A. Yes.
 13 Q. Now, you heard Mr. Armstrong testify
 14 yesterday that his Tour de France race weight was in
 15 the low 74s, right?
 16 A. He said 72.5 to 73.
 17 Q. Well, he said that, but if you recall later
 18 in his testimony he said that was a goal, that
 19 realistically he was starting in the low 74s. Do you
 20 recall that?
 21 A. Well, there are a number of discussions and,
 22 you know, this is relating to 1999. You remember,
 23 this wasn't relating to the others. I studied him up
 24 to the point in time when he won his first Tour de
 25 France in '99. That's all I'm reporting to here. And

1 that was the point when his body weight was the
2 lowest, so -- and that was the value that when I asked
3 him what his body weight was and he told me 72
4 kilograms. That was back at the time that we did the
5 testing in 1999.

6 So when we were asking him yesterday, I
7 heard a number of values, and I imagine if we clarify
8 which date you were talking about, he has seven
9 different Tour de Frances to discuss. And we know
10 that his most recent Tour de France he weighed a bit
11 more.

12 Q. Okay. Now, if --

13 A. But they're all in the range of 72 to 74
14 kilograms, which, you know, that's four pounds, so...

15 Q. But it would change your calculation, right?

16 A. Yes.

17 Q. All right. And if, for instance, you plugged
18 in 74 instead of 72 there, it's going to drop his VO2
19 max down from the 85 that you're reporting, right?

20 A. Yes.

21 Q. Now, I want to look again at the table, if
22 you'll keep in mind this paragraph that you're using
23 72 with a VO2 max conservatively estimated at 6.1. In
24 your five testing periods, what was the highest value
25 of maximal O2 uptakes that you ever tested

1 Q. And the Tour de France ends, you know,
2 roughly the last days of July, right?

3 A. (Nods head.)

4 Q. And you had an opportunity to test him a few
5 weeks later in September, correct?

6 A. More than a few weeks, yes.

7 Q. Well, I believe the testing date was
8 September 13th. Does that reflect what you recall?

9 A. I don't recall when in September.

10 Q. I can show you if you would like to see it,
11 or does it matter to you if it was the 13th or not?

12 A. It doesn't matter.

13 Q. Okay. Now, Mr. Armstrong, after completing
14 the Tour in 1993 -- well, first off, Mr. Armstrong did
15 not finish the tour in 1993, right?

16 A. I don't know.

17 Q. Okay. Well, if evidence is presented that
18 he, in fact, did not finish the Tour in 1993, you have
19 no reason to dispute that, correct?

20 A. (Nods head.)

21 Q. And in fact, Mr. Armstrong raced in the Tour
22 in '93, '94, '95 and '96, finishing the race only one
23 time. Were you aware of that?

24 A. No. I mean, yes, generally, yes, but I don't
25 know specifics.

1 Mr. Armstrong for?

2 A. 6.1.

3 Q. So is 6.1 a conservative estimate or was it
4 the highest value that you had ever actually reported
5 on Mr. Armstrong?

6 A. It's a conservative estimate.

7 Q. Now, I also want to look at -- have you --
8 have you read Mr. Armstrong's first book?

9 A. May I qualify why it's conservative?

10 Q. It's -- I'm sure that your lawyer will give
11 you a chance to do that, sir. I'm not trying to be
12 rude. I'm trying to get through.

13 Have you had a chance to read
14 Mr. Armstrong's book?

15 A. Years ago.

16 Q. Okay. Now, at page 219 in Mr. Armstrong's
17 book, It's Not About the Bike -- well, first, let me
18 ask you this. Mr. Armstrong's 1993 racing season was
19 successful, correct?

20 A. Yes.

21 Q. He won the world championships that year?

22 A. Yes.

23 Q. And it was also the first year that he raced
24 in the Tour de France, correct?

25 A. Yes.

1 Q. Okay. Now, at page 219 of Mr. Armstrong's
2 book, Mr. Armstrong says, the doubt about me as a tour
3 rider was my climbing ability. I could always sprint,
4 but the mountains were my downfall. Eddie Murphy told
5 me -- or had been telling me to slim down for years
6 and now I understood why. A five-pound drop was a
7 large weight loss for the mountains and I had lost 15
8 pounds. It was all I needed. I became very good in
9 the mountains.

10 And that's consistent with your opinion
11 that Mr. Armstrong's increase in performance was
12 attributable in large part because of weight loss,
13 correct?

14 A. Correct.

15 Q. The data you took following Mr. Armstrong's
16 performance in the 1993 Tour de France and the data
17 you took following the 1999 Tour de France does not
18 reflect a 15-pound weight loss, does it?

19 A. No.

20 Q. And in fact, if you estimate that
21 Mr. Armstrong raced the 1999 Tour de France at 72
22 kilograms, he was essentially without body fat as
23 compared to your 1999 testing period; is that right?

24 A. No. I'm not sure what you mean by
25 essentially without body fat. I mean, that's what --

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1 what does this mean?
 2 Q. Well, his lean body weight, which I
 3 understand excludes body fat; is that right?
 4 A. Yes.
 5 Q. In 1999 was 71.6, correct?
 6 A. Yes.
 7 Q. Meaning that if he had maintained his lean
 8 body mass, he had at the time he raced the Tour
 9 four-tenths of a kilogram of body fat, correct?
 10 A. Well, you're saying -- you're assuming that
 11 he maintains exactly what lean body weight?
 12 Q. Yes.
 13 A. What lean body weight are you saying exactly?
 14 Because in my paper I say -- and in the slide here in
 15 this PowerPoint it says lean body weight was constant
 16 at between 68 and 70 kilograms. So I'm not sure
 17 what -- we need to know what your exact values you're
 18 referring to in order to come up with this --
 19 Q. Fair enough, fair enough. Now, unfortunately
 20 you didn't, for some reason, test Mr. Armstrong's or
 21 at least report Mr. Armstrong's lean body weight in
 22 the September '93 testing period, right?
 23 A. Correct.
 24 Q. But we know his gross body weight was 75.1
 25 kilograms, right?

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1 A. Yes.
 2 Q. Now, 15 pounds is roughly seven kilograms,
 3 correct?
 4 A. Yes.
 5 Q. You don't have any hypothesis that you're
 6 going to put forward that Mr. Armstrong started the
 7 1999 Tour de France at 68 kilograms, do you?
 8 A. No.
 9 Q. Okay. So he definitely was starting heavier
 10 than the amount of weight loss he attributes to
 11 himself in his book, right?
 12 A. Say that again.
 13 Q. He's definitely starting the tour heavier
 14 than the 15-pound weight loss that he attributes to
 15 himself in his book?
 16 A. Well, a 15-pound weight loss depends on where
 17 you're starting weight loss from. I mean, I don't
 18 know what he's referring to in his book, so I think
 19 this is selective data analysis. I'm -- I'm -- you
 20 just show me what numbers he's starting with and where
 21 you got them from to make this case.
 22 Q. Fair enough. I don't want to belabor the
 23 point too much. Mr. Armstrong fails to finish the
 24 1999 -- I'm sorry, 1993 Tour de France at 75.1
 25 kilograms, correct, if you assume he didn't finish in

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1 1993? That was his weight when you tested him,
 2 correct?
 3 A. Correct.
 4 Q. And he says I got better in the mountains
 5 because I lost seven kilograms, correct?
 6 A. Correct.
 7 Q. But when he wins for the first time in 1999,
 8 you're not even putting forward the explanation that
 9 he was seven kilograms lighter than he had been when
 10 he won -- I'm sorry, when he competed in his first
 11 tour in 1993, that's all I'm saying.
 12 A. No.
 13 Q. Okay. Now --
 14 ARBITRATOR FAULKNER: Counsel, is this a
 15 good time to break? Lunch has been delivered and is
 16 outside and we have the other issue to deal with
 17 regarding Mr. Walsh and Anderson and Ms. O'Reilly that
 18 we asked y'all to let us know whatever y'all have been
 19 able to agree upon for them.
 20 MR. TOWNS: Absolutely, yes, sir.
 21 ARBITRATOR FAULKNER: Okay. Great. If
 22 it's a good time, let's move to that particular issue.
 23 Dr. Coyle, you can step down for a little
 24 while, but you will be being called back.
 25 What agreements, if any, have y'all been

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1 able to reach with regards to Anderson and O'Reilly?
 2 MR. TILLOTSON: We have been able to
 3 agree -- it's been reduced to writing but hasn't been
 4 officially signed off that Mr. Anderson is appearing
 5 in these proceedings pursuant to a validly issued
 6 subpoena.
 7 ARBITRATOR FAULKNER: Okay. So we don't
 8 need to deal with -- is that correct?
 9 MR. HERMAN: That's correct.
 10 ARBITRATOR FAULKNER: Okay, we can deal
 11 with that one. What about Ms. O'Reilly?
 12 MR. TILLOTSON: We haven't reached any
 13 agreement. I think they still object to our ability
 14 to take her deposition by videoconference.
 15 ARBITRATOR CHERNICK: Well, when you say
 16 take her deposition, you mean --
 17 MR. TILLOTSON: I'm sorry, I mean present
 18 her trial testimony.
 19 MR. HERMAN: Yeah, we do object to that,
 20 I mean, for the same reasons we've mentioned, that you
 21 issued -- the chairman issued a valid subpoena which
 22 she has never complied with. And so for her to come,
 23 no documents, voluntarily without us having the
 24 opportunity under the act to depose her as the panel
 25 has authorized us to do for a witness beyond the

1 subpoena power is a violation of the act and it's --
 2 you know, it's patently unfair to us. It's not --
 3 she's not our witness and, you know, we made these
 4 arrangements by agreement, confirmed by the subpoena,
 5 and nothing has happened. So she ought to not be
 6 allowed to testify. Plus to have her testify by video
 7 is patently unfair. We have got no idea -- we have no
 8 idea how we could cross-examine her. She hasn't
 9 produced any documents and we haven't been able to
 10 depose her to determine, you know, what sort of
 11 cross-examination might be appropriate.
 12 ARBITRATOR FAULKNER: Okay. Have we
 13 gotten a ruling yet from the British court?
 14 MR. BREEN: I did get an update.
 15 MR. HERMAN: Yes, I did.
 16 MR. TILLOTSON: First of all, those are
 17 two different issues, I think.
 18 MR. HERMAN: They do have overlap,
 19 though, because --
 20 ARBITRATOR FAULKNER: Let's finish on
 21 O'Reilly and then we'll go to Walsh so I can find out
 22 what the court has done over there.
 23 MR. TILLOTSON: The problem with O'Reilly
 24 is that we've been unable to obtain her deposition
 25 based upon the language in the subpoena that they

1 insist upon, so I can't get her to be deposed. I'm
 2 told that the language that they want is the language
 3 ordered by this panel that I will be able to likely
 4 obtain, in effect, a trial subpoena for her.
 5 ARBITRATOR FAULKNER: Okay.
 6 MR. TILLOTSON: That she will -- it would
 7 just be live testimony, but it would not qualify as --
 8 or be allowed as a discovery.
 9 ARBITRATOR FAULKNER: Right. We
 10 understand that and we may have a solution on that
 11 one.
 12 Let's move to Mr. Walsh. Could you
 13 please let us know whatever the courts have done?
 14 MR. HERMAN: Mr. Walsh -- it's his
 15 attorneys that appeared for him are continuing to
 16 resist the disclosure of any documents and -- or -- or
 17 the use of them in this proceeding. And you all --
 18 the other side may have a report, but I'll just give
 19 you the report that I got. The -- the -- the British
 20 lawyers say that the Times and Walsh lawyers said that
 21 they hadn't had an opportunity to present all of their
 22 submissions or whatever, so the judge said, well, we
 23 will give them until next week to produce whatever it
 24 is they want to produce in opposition, and then we'll
 25 have a hearing next week.

1 So as of now, the resistance to
 2 disclosure continues and no authorization has been
 3 made by the British court.
 4 ARBITRATOR FAULKNER: Okay.
 5 MR. HERMAN: I think that's accurate, but
 6 you know, somebody else may have better information.
 7 ARBITRATOR CHERNICK: Any different
 8 characterization?
 9 MR. TILLOTSON: I have not heard
 10 anything, but it wouldn't surprise me if the
 11 proceeding was delayed because they were filing things
 12 as of this morning.
 13 ARBITRATOR FAULKNER: That doesn't
 14 surprise me, either.
 15 Anything else we need to ask, gentlemen,
 16 before we --
 17 ARBITRATOR CHERNICK: No.
 18 ARBITRATOR FAULKNER: We will stand in
 19 recess right now. If y'all will have whatever lunch
 20 is being brought in, we are going to go upstairs and
 21 then we will -- when we come back down I think we will
 22 have some solutions for y'all.
 23 MR. HERMAN: Do you know what time we'll
 24 reconvene?
 25 ARBITRATOR FAULKNER: It's right now

1 11:41 --
 2 ARBITRATOR CHERNICK: How about maybe
 3 12:30 at the latest.
 4 ARBITRATOR FAULKNER: Yeah, let's try for
 5 12:30, y'all. We are trying to make up time so we get
 6 a full day in or as close to one as we can.
 7 (Recess 11:41 a.m. to 12:30 p.m.)
 8 ARBITRATOR FAULKNER: Okay. We are back
 9 on the record. All right. We have an arrangement
 10 based on what you gentlemen indicated to us earlier
 11 with regard to Mr. Walsh and so would you go ahead and
 12 add that into the record, then we're going to address
 13 Ms. O'Reilly.
 14 Mr. Herman, I think you probably
 15 explained it best. Why don't you go ahead and state
 16 into the record what we're doing with Mr. Walsh
 17 MR. HERMAN: Well, Mr. Walsh will respond
 18 and produce documents which are subject to the
 19 subpoena, which was earlier issued upon him. I will
 20 make that -- I'll make that an exhibit, and I think
 21 the parties have stipulated that by this agreement we
 22 agree that Mr. Walsh has been served with the subpoena
 23 and it is not being contested as invalid for any
 24 reason and that he's obligated to produce the
 25 documents specified in the subpoena subject to,

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1 however, the -- he is not required to produce
 2 documents which have been produced in the British case
 3 and which have been previously furnished to counsel
 4 for Claimants, and Claimants have, to the extent
 5 necessary, Mr. Walsh's consent to use those documents
 6 in connection with this proceeding.
 7 ARBITRATOR FAULKNER: Mr. Tillotson, is
 8 that fair?
 9 MR. TILLOTSON: That is fair.
 10 ARBITRATOR FAULKNER: Okay, let's address
 11 Ms. O'Reilly.
 12 MR. TILLOTSON: I'm sorry, in exchange
 13 that the parties agree that Mr. Walsh will testify
 14 live on Thursday, presuming that will be my case,
 15 regardless of what is going on, that Mr. Walsh is
 16 scheduled to be accommodated so he can testify on
 17 Thursday.
 18 MR. HERMAN: I agree, that's part of our
 19 agreement as well.
 20 ARBITRATOR FAULKNER: Okay. Let's go on
 21 to Ms. O'Reilly. We have heard numerous times from
 22 y'all -- this seems to be the last one that y'all
 23 haven't been able to reach an agreement on. We
 24 understand the arguments and the basis for the
 25 arguments from both sides.

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1 Here's what the panel is going to do.
 2 First of all, we will facilitate service of a trial
 3 subpoena for this hearing upon Ms. O'Reilly. Whatever
 4 y'all need us to do, we are happy to do in that
 5 regard.
 6 Second, trial testimony may be by
 7 videoconference at a mutually convenient and agreeable
 8 time during the proceedings next week.
 9 Third, Claimants will be entitled to
 10 cross-examine Ms. O'Reilly. At the conclusion of her
 11 cross-examination, Claimant may move to strike her
 12 testimony in part or in whole and/or may move to
 13 recess Ms. O'Reilly's testimony to facilitate further
 14 investigation of any of the statements she may make in
 15 testimony before we resume hearing her testimony for
 16 trial and/or they may seek to present rebuttal
 17 witnesses.
 18 Fourth, these provisions are being based
 19 upon Mr. Tillotson's representation that a deposition
 20 subpoena would not be enforceable as one was
 21 previously presented to us and we would simply ask for
 22 something, you know, very brief from your British
 23 counsel indicating that what had been issued for
 24 deposition purposes was not enforceable pursuant to
 25 British law. Members of the panel are already

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1 generally familiar with the law of the United Kingdom
 2 in this regard, so it does not need to be very long.
 3 Okay. Gentlemen, that should solve your
 4 problem with regard to Ms. O'Reilly. We're very glad
 5 you solved your own problems with regards to Mr. Walsh
 6 and I think you can suspect that we already had
 7 something in mind for him had that been necessary.
 8 So, Dr. Coyle, you are still on the
 9 witness stand. You're still under oath. Is there --
 10 before we resume with you, is there anything else,
 11 guys, we need to take up?
 12 MR. HERMAN: Hopefully over the
 13 weekend -- and I hope you can appreciate that given
 14 the demands on our time this week, but hopefully over
 15 the weekend we'll have, you know, a comprehensive
 16 written agreement that we can put in the record --
 17 ARBITRATOR FAULKNER: That's fine.
 18 MR. HERMAN: -- that will memorialize it.
 19 ARBITRATOR FAULKNER: That's perfectly
 20 fine. We know that we will be seeing Mr. Walsh on
 21 Thursday. We recognize y'all will need some time and
 22 we will accommodate y'all on that.
 23 So anything else we need to deal with
 24 before we resume with Dr. Coyle?
 25 All right. Mr. Towns, please resume.

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1 Q. (BY MR. TOWNS) Dr. Coyle, I just want to
 2 clear up a couple of things we talked about before we
 3 took the break. Going back to the measurements, the
 4 blood measurements that you did on Mr. Armstrong in
 5 the test, when you measured lactic acid using the PCA
 6 method, you confirmed that every time that you did
 7 that you adjusted for plasma volume?
 8 A. Yes.
 9 Q. And to make that adjustment, did you have to
 10 measure hematocrit and hemoglobin concentration?
 11 A. No.
 12 Q. You did not?
 13 A. No.
 14 Q. So you never saw those values?
 15 A. Correct.
 16 Q. Okay. Now, I want to talk about your paper.
 17 We talked in the last hour about one part of the
 18 equation, that being the ability to generate power,
 19 and we talked about a few different -- you know, the
 20 weight and VO2 and things likes that. Now I want to
 21 talk about the transmission as you described it, the
 22 efficiency. And the first thing I wanted to say is --
 23 or to ask you is the measurement of efficiency really
 24 was the purpose of Respondents' 33, correct?
 25 A. Yes.

1 Q. And in Respondents' 33, the JAP article, what
 2 you're attempting to demonstrate is that
 3 Mr. Armstrong's efficiency had improved each
 4 measurement period as you saw with the straight line
 5 over the five testing periods, right?
 6 A. Right.
 7 Q. Now, you'll agree with me that for the
 8 September '93 period we don't have mechanical
 9 efficiency testing done in that particular testing
 10 period, right?
 11 A. Correct.
 12 Q. And I asked you about that in your deposition
 13 and I think that you told me that there may have been
 14 a problem with the ergometer or there was some reason;
 15 is that right?
 16 A. Yes. I'm not sure exactly why we didn't make
 17 that measurement. Most likely the ergometer either
 18 wasn't available, was being used for another
 19 experiment or -- I don't recall.
 20 Q. Okay. Will you describe briefly -- because
 21 despite my interest and effort, I'm not sure I
 22 understand -- what exactly is happening? I've seen
 23 the picture of Mr. Armstrong and the tubes. What
 24 tests are being done when he's in the lab as reflected
 25 in this --

1 bicycle ergometer.
 2 Q. Okay.
 3 A. The other part is how much -- how much energy
 4 his body is expending. That is calculated from his --
 5 his -- the measurement of oxygen consumption to
 6 determine that. You saw the mouthpiece and you saw
 7 that measuring the air and oxygen going in and out of
 8 his body. The difference is how much he is consuming.
 9 At -- and then you -- you use indirect calorimetry in
 10 detecting -- by which you say for every one liter of
 11 oxygen consumed, you're producing, when you have a
 12 respiratory change ratio of 1.0, about five calories
 13 of energy per liter per minute.
 14 Q. Okay.
 15 A. And --
 16 Q. I'm sorry.
 17 A. And the point is we are using this measure of
 18 oxygen consumption as his whole body energy
 19 expenditure, converting that to calories per minute.
 20 We can also discuss this in terms of watts. The --
 21 from that measurement of oxygen consumption, we can
 22 also directly calculate how many watts of total --
 23 total chemical energy he was converting into something
 24 else. The something else is the physical work on the
 25 ergometer and the balance would be the heat.

1 A. The testing measures --
 2 Q. Let me stop you. I don't need all the
 3 technical -- I mean, if you can just describe
 4 generally we are doing this and testing this, we're
 5 doing this and testing that, I don't need the detail
 6 and all -- what the results are. I'm just interested
 7 in the methodology of the testing.
 8 A. Okay.
 9 Q. Does that make sense?
 10 A. Yes.
 11 Q. Big picture.
 12 A. Big picture, okay. One is Mr. Armstrong is
 13 pedaling a bicycle ergometer, stationary bicycle, for
 14 the measurements of muscle efficiency. This ergometer
 15 was -- was the Monarch 819. It's -- it's a piece of
 16 equipment by which you can manually press in the
 17 constant power output you want it to be at. So we
 18 could do that electronically, and we would tell
 19 Mr. Armstrong keep your RPMs at 85 RPMs and this
 20 instrument would -- would alter the resistance on the
 21 fly wheel very slightly just to keep a constant power,
 22 whatever we decided the power should be as far as, you
 23 know, how intense we wanted him to work. So that --
 24 that is a description of the -- half of the equation,
 25 that is the power that was generated physically on the

1 So my point is that by the measurement of
 2 oxygen consumption we were able to calculate his whole
 3 body rate of energy expenditure for his bodily rate --
 4 his bodily rate of energy production. Efficiency is
 5 simply how much work is done, how much -- excuse me,
 6 how much power is generated on the ergometer divided
 7 by how much power his body has to expend to accomplish
 8 that ratio as we have seen is around 21 to 23
 9 percent --
 10 Q. Okay.
 11 A. -- in Mr. Armstrong's case.
 12 Q. So he's riding this Monarch ergometer. It's
 13 like a bike, as I understand it?
 14 A. Yes.
 15 Q. And he's got these tubes as we saw in his
 16 mouth, right?
 17 A. Correct.
 18 Q. How long is he riding this ergometer for that
 19 test.
 20 A. Well, for the measurement of gross and delta
 21 efficiency we use a 30-minute protocol. And what that
 22 means is that these are all submaximal exercises,
 23 that's intensive.
 24 Q. And is it stair stepping up, as I understand
 25 it?

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1 A. Yes, every five minutes the intensity goes
 2 up. The first five minutes it's 50 percent, then 55
 3 and 60 all the way up to 90 percent.
 4 Q. Okay. Now --
 5 A. Of his maximal oxygen uptake.
 6 Q. Now, if we look at -- well, there's also, as
 7 I understand it, another test, which sounds like a lot
 8 less fun to me and that is an eight to ten-minute
 9 test; is that right?
 10 A. Yes, that's the test for -- for his maximal
 11 oxygen uptake. And essentially there he is -- you
 12 have the individual exercise at an intensity that is
 13 above their -- above his body's ability to consume
 14 oxygen and you establish that as you keep increasing
 15 the -- the power output from the ergometer the body
 16 does not have the ability to keep increasing its level
 17 of oxygen consumption or aerobic power production and
 18 so essentially the individual's level of oxygen
 19 consumption goes up and up and up and reaches a
 20 maximum, which is a plateau, and that's all they've
 21 got essentially. That is their maximal oxygen uptake
 22 or VO2 max, maximal aerobic power or whatever.
 23 And also that's where they achieve their
 24 maximal heart rate. There are several ways in which
 25 we find this as being the maximal cardiovascular

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1 ability.
 2 Q. Okay. And that's -- in my mind, you're just
 3 riding as long as you can at that intensity and that's
 4 what you're measuring?
 5 A. Yes.
 6 Q. You're measuring those things in the process,
 7 the eight to ten-minute test?
 8 A. Yes, and eventually the individual fatigues.
 9 They don't have to fatigue. I mean, they have to
 10 experience fatigue and feel, you know, pretty tired,
 11 but it's a strenuous test, yes.
 12 Q. And it's a combination of those two tests
 13 that's reflected in your report, the JAP article,
 14 correct?
 15 A. Yes.
 16 Q. And I think you told me at your deposition
 17 there's been some confusion about the ergometer, that
 18 he used different ergometers for different parts of
 19 the test, correct?
 20 A. Correct.
 21 Q. The -- well, first, let me ask you this.
 22 There has been some discussion about the different
 23 parts of the season that Mr. Armstrong was in at the
 24 time that the -- the five times that he was tested,
 25 right? That he may have been in different conditions

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1 in those times, physical, correct?
 2 A. Correct.
 3 Q. All right. Now, your mechanical efficiency
 4 showed an improvement in the first testing period to
 5 the end in a straight line, as you've described it,
 6 right?
 7 A. Correct.
 8 Q. And so in that -- in that measurement, there
 9 was no adjustment for what season that he was in?
 10 A. Correct.
 11 Q. Now, gross efficiency and delta efficiency.
 12 Gross accounts for life itself, right, meaning the
 13 ability to sit on the bike and keep your heart pumping
 14 and whatever else goes on outside of pedaling, right?
 15 A. Correct.
 16 Q. And delta attempts to account for pedaling
 17 itself, correct?
 18 A. Yes.
 19 Q. Now, the numbers in table 2 in your JAP
 20 article between gross and delta are very, very close,
 21 right?
 22 A. Correct.
 23 Q. And I asked you about that in your deposition
 24 and I think you told me that that seemed a little bit
 25 unusual, correct?

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1 A. Uh-huh.
 2 Q. But that it wasn't really important to the
 3 conclusions you were reaching on Mr. Armstrong, the
 4 delta and the gross; is that accurate?
 5 A. It's accurate. I would maybe choose a
 6 different word than unusual. I would say that's not
 7 typical. I mean, it's perfectly -- it would not --
 8 it's not abnormal that somebody happens to have the
 9 same gross efficiency and delta efficiency. I mean --
 10 Q. Well, I think the word you use -- and we can
 11 look if you don't recall, I'm not trying to trick
 12 you -- is that it didn't demonstrate to you anything
 13 unique about Lance Armstrong?
 14 A. No. Well --
 15 Q. Do you agree with that, that it didn't
 16 demonstrate anything unique?
 17 A. Anything unique? Not that I can think of.
 18 Q. Okay. Now, the -- the measurement of
 19 Mr. Armstrong's increase in efficiency, Ms. Blue asked
 20 you if it was comparable to a report that was done on
 21 running efficiency. Do you remember that?
 22 A. Yes.
 23 Q. Now, in all fairness, in running efficiency,
 24 in running itself, there are elastic changes in tendon
 25 and muscle that aren't present in cycling, correct?

1 A. Correct.
 2 Q. And there have been reports -- I'm sorry,
 3 criticisms of your report, and we have talked about
 4 some of those people that have made those criticisms
 5 earlier, but a large part of those criticisms have
 6 been aimed at your use of more than one ergometer in
 7 the five testing periods with Mr. Armstrong; is that a
 8 fair statement?
 9 A. No, it's not.
 10 Q. It's not, okay.
 11 What's the next one?
 12 MR. BREEN: Are those the letters to the
 13 editor?
 14 MR. TOWNS: Yes.
 15 MR. BREEN: I think they're in. They're
 16 Respondents' 74.
 17 MR. TOWNS: Oh, okay.
 18 MR. TILLOTSON: Let's double-check so
 19 we --
 20 ARBITRATOR FAULKNER: Did you say
 21 Respondents' 74?
 22 MR. TILLOTSON: Yes, Respondents' 74.
 23 ARBITRATOR FAULKNER: Okay. They are.
 24 MR. TOWNS: Very good.
 25 Q. (BY MR. TOWNS) Now, in Respondents' 74,

1 the same ergometer. Do you see that?
 2 A. Yes.
 3 Q. And he says the terminology used to describe
 4 the same Monarch ergometer model 819 used for all
 5 cycle testing is confused. Do you see that?
 6 A. Right.
 7 Q. And you are aware that there were some
 8 discussions about what ergometers you had used,
 9 correct?
 10 A. Right.
 11 Q. And then you answered that. You reply to
 12 that on page 1629, which is SCA 1948. In the
 13 right-hand column, again the first full paragraph,
 14 says point three, were all tests performed on the same
 15 ergometer, and here you are answering it and you say
 16 all the data presented on Armstrong in this manuscript
 17 were indeed collected from the same ergometer, only
 18 one unit used. Do you see that?
 19 ARBITRATOR LYON: Where is that? I've
 20 got the -- I don't have the rest --
 21 ARBITRATOR FAULKNER: It's the page
 22 before that, I think.
 23 MR. TILLOTSON: It appears to have been
 24 collated out of order so it's -- or produced out of
 25 order.

1 these are questions, letters to the editor. If you go
 2 to the last page of Respondents' 74 -- these are
 3 copied in the wrong order. If you look at in the
 4 right-hand column the first full paragraph, just the
 5 first sentence will be fine, the first couple of
 6 sentences. The first full paragraph.
 7 MR. BREEN: Bates 1948?
 8 MR. TOWNS: Yes.
 9 MR. BREEN: That's the second to the last
 10 page.
 11 MR. TOWNS: Okay. In mine it's the
 12 last -- I think it's just out of order.
 13 MR. TILLOTSON: The SCA, page 1949.
 14 MR. TOWNS: Yeah, 1949. The paragraph
 15 headed, were all tests performed on the same
 16 ergometer.
 17 ARBITRATOR FAULKNER: 1949, right column,
 18 first paragraph, first full paragraph.
 19 Q. (BY MR. TOWNS) Do you see that, Dr. Coyle?
 20 You have it in front of you. We may be having a
 21 little difficulty getting it up on the screen.
 22 A. Yes, I can see that.
 23 Q. And this is David Martin at the Australian
 24 Institute of Sport and he's asking you -- or I guess
 25 he's asking the editor were all tests performed on

1 ARBITRATOR FAULKNER: It's point number
 2 three.
 3 MR. TOWNS: It's backwards for some
 4 reason.
 5 Q. (BY MR. TOWNS) Do you see where it says
 6 that, Dr. Coyle?
 7 A. Yes.
 8 Q. So we saw a picture in your PowerPoint with
 9 Mr. Armstrong riding some kind of ergometer and I
 10 think you've described that as a Schwinn, correct?
 11 A. Correct.
 12 Q. So in fact, all data in the report did not
 13 come from the Monarch, did it?
 14 A. All the efficiency data, all the measurements
 15 of muscle efficiency, which are, you know, the only
 16 measurements where what ergometer we used was
 17 important. I mean, you can measure maximal oxygen
 18 uptake whether a person is running on a treadmill or
 19 bicycling. Maximum is maximum whether you're -- you
 20 know, as long as you're using a long enough muscle
 21 mass.
 22 So when you say all of the -- all the
 23 data, you know, I'm referring to all the data
 24 referred -- all the data that is using power output,
 25 which is important for the calculation of muscle

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1 efficiency. That was collected on one ergometer, the
 2 Monarch 819. That's the only important measurement
 3 where power factors into any calculation. There is no
 4 other use of an ergometer or measurement where power
 5 becomes important.
 6 Q. Okay. But in all fairness, the way this was
 7 written, that all data presented on Armstrong in his
 8 manuscript were indeed collected from the same
 9 ergometer, could be read to mean all data presented in
 10 the manuscript came from the same ergometer, right?
 11 A. I think we need to go back and read the
 12 context of what the question was from Mr. Martin in
 13 prior responses. Because what they were doing in the
 14 question from Mr. Martin, he was questioning whether
 15 all the efficiency data was calculated from using the
 16 same Monarch. And really if you go back and read the
 17 question of Mr. Martin, and when he says -- when you
 18 said initially there was confusion, the original word
 19 he had used was suspicion, not confusion.
 20 So when he read his paper, he claimed
 21 there was suspicion that he had found us doing
 22 something inappropriate, and what his suspicion was
 23 was he essentially was saying that Monarch does not
 24 make an ergometer that can be used in the way that you
 25 used it, constant power. They do not make an

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1 ergometer that is electronic or computerized. We got
 2 you, Coyle, you cheated, okay. It's suspicious.
 3 That's why they wrote that article, that letter to the
 4 editor, David Martin. The word is suspicion.
 5 And I think if you probably read the
 6 preprint, not the article that came out in publication
 7 here, but if you read the electronic types, manuscript
 8 set that I had seen copies of it downloaded from the
 9 JAP web site, the word suspicion is in there, not
 10 confusion, by Mr. Martin.
 11 Q. Okay. Well, I wasn't trying to mince the
 12 words.
 13 A. No, no, this is the version I have. Well,
 14 this is the important point of Mr. Martin's letter to
 15 the editor and I would encourage the panel to read it
 16 very carefully. He essentially said Coyle tests
 17 Armstrong, suspicion, looking for suspicion. He says
 18 Coyle used a Monarch ergometer that was computerized.
 19 Monarch does not make a computerized electronic
 20 ergometer, Dr. Martin says, therefore we caught Coyle
 21 and by inference Armstrong in some kind of lie.
 22 And I think Dr. Martin assumed that all
 23 along and -- until in the record you also see a letter
 24 from the manufacturer of Monarch that indeed says that
 25 Monarch did make an electronic ergometer. Only 20

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1 units that were sold in the U.S., of which we had one.
 2 And I sent a photograph of that to Dr. Martin just in
 3 response, because he probably wouldn't believe
 4 anything but a picture of the actual unit.
 5 So I was pleased to relieve him of his
 6 suspicions. The editor decided for some reason --
 7 didn't consult me, but took the word out suspicions
 8 because that's a little different word, in my opinion,
 9 and put confusing in, and I didn't realize he
 10 substituted suspicions for confusion until I actually
 11 sat down this week and read this.
 12 So there's a history for this letter and
 13 there was an actual purpose, in my opinion, to
 14 Dr. Martin's response.
 15 Q. Those of us that aren't familiar with the
 16 behind the scenes change from suspicion to confusion
 17 and were just reading it, it's fair to say or to
 18 interpret what it says, and that says all the data?
 19 A. I understand. It's fair -- if you want to be
 20 fair, all you need to do is read the entire letter to
 21 the editor, read his original letter and read my
 22 response, don't just pull out selective paragraphs and
 23 words.
 24 Q. Okay.
 25 A. I mean, the message he's sending in that

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1 letter is quite clear and my response is quite clear.
 2 ARBITRATOR FAULKNER: Okay. Doctor,
 3 before you go any further, I see a reference to
 4 something about, as did our system for measuring
 5 indirect calorimetry. Was there something else used
 6 on Mr. Armstrong we have not heard about in the way of
 7 testing?
 8 THE WITNESS: No, that's the oxygen
 9 consumption system.
 10 Q. (BY MR. TOWNS) Okay. So as I understand it,
 11 the 25, 30-minute test measured efficiency, correct?
 12 A. Yes.
 13 Q. That's the one that you used the Monarch 819
 14 for all the four test groups, right?
 15 A. Yes.
 16 Q. And then there was the eight to ten or
 17 12-minute test, right?
 18 A. Yes.
 19 Q. The maximal --
 20 A. The maximal test.
 21 Q. Maximal test. And the -- I guess your
 22 testimony that some testing was done on a Schwinn, is
 23 that the test you're referring to?
 24 A. Yes.
 25 Q. Okay. So people that read this in your

1 article understood that the efficiency testing was
2 done on the Monarch 819 once they read this?

3 A. Right.

4 Q. And then the other, the eight to 12-minute
5 test that resulted in like maximum heart rate and some
6 of these other values was done, I guess, on a Schwinn?

7 A. It could have been done on a number of
8 devices, yes.

9 Q. Okay. Now, if you look at page 2191 of
10 Respondents' 33 under methods -- 2191, which is the
11 second page of Respondents' 33. It's the article.
12 The paragraph in the lower middle page beginning with
13 measurement of VO2 max, the right-hand column. Okay.
14 Beginning where it says measurement of VO2 max, here
15 you're describing your testing method, correct?

16 A. Right.

17 Q. It says the same Monarch ergometer, model
18 819, equipped with a racing seat, black handlebars and
19 pedals for cycling shoes was used for all cycle
20 testing. And seat height and saddle position were
21 held constant. Pedal strength being 175 milliliters,
22 VO2 max was measured during continuous cycling lasting
23 between eight and 12 minutes. This was the eight to
24 12-minute test, right?

25 A. Correct.

1 Q. And here it's representing that it was the
2 same Monarch ergometer that was used for that, right?

3 A. Yes.

4 Q. But, in fact, the Schwinn was used in some
5 testing periods, wasn't it?

6 A. I believe -- well, I know the Schwinn was
7 used for all measurements of submaximal, which is the
8 calculation of efficiency. I also know that we used
9 this -- the same Monarch ergometer, this one mentioned
10 here, for possibly all of the maximal tests, too. And
11 we did additional testing that's not reported here
12 that was done where the bicyclist would say, look, I
13 don't -- in addition to riding your bicycle ergometer
14 for a laboratory, which isn't the exact same set-up as
15 my bicycle, I would like to see how results compare if
16 I ride my own bicycle.

17 Well, you take their bicycle, you put it
18 on the Schwinn, as you have seen, and we do additional
19 testing. We did additional testing for submaximal
20 efficiency. We did additional testing for lactates.
21 We sometimes did additional testing for VO2 max.

22 So what I'm saying is all of -- I'm
23 positive that all of our efficiency tests were done on
24 the same Monarch. I'm fairly certain that all of our
25 VO2 max testing was also done on the same Monarch. So

1 that is a correct statement. And what I'm saying is
2 we did, then, additional tests, certainly sub max for
3 lactate responses and heart rates and powers, because
4 the cyclists want to know what their heart rates are
5 on their bicycles, certain powers, so when they ride
6 they can relate back to it. And that's some of the
7 data you have seen in the photographs.

8 Q. I'm not trying to be unfair, Doctor. My
9 point really is is that there has been testimony in
10 your deposition and here that this eight to 12-minute
11 test for the purposes of reporting data in your report
12 was at times conducted on a Schwinn, right?

13 A. During the eight to ten minutes I think we
14 probably did VO2 max testing, you know, on the Schwinn
15 and on the Monarch, yes.

16 Q. Okay. But my question is, in your deposition
17 and again earlier you've testified that in reaching
18 data to put in the report on these eight to ten,
19 12-minute tests the Schwinn was used, correct?

20 A. This -- well, the Schwinn might have been
21 used as a duplicate test one or two times. It wasn't
22 used as the primary method for testing, and it wasn't
23 used as the only method for testing.

24 Q. Do you remember giving your deposition in
25 this matter?

1 A. Yes.

2 MR. TOWNS: Okay. If we can look at
3 Mr. Coyle's deposition at page 13.

4 Q. (BY MR. TOWNS) Dr. Coyle, let me show you on
5 page 13 of your deposition that we took in this
6 matter. I'm sorry, it starts on page 12 at line 25.
7 I say: Now, if we look at table 2 in the
8 September 1993 examination, you see efficiency wasn't
9 even recorded in that test, correct?

10 And your answer: Uh-huh.

11 Question: Would there have been notes
12 that would have indicated the recording of efficiency?

13 Answer: No, probably not.

14 Question: Why wasn't efficiency recorded
15 in that test?

16 Answer: We probably didn't use the
17 bicycle ergometer, that is the Monarch 819 ergometer
18 that we typically use to do efficiency. Now, to
19 measure efficiency we rely strictly -- upon strictly
20 one ergometer and we note on that date we probably
21 used some other ergometer which is valid for measuring
22 VO2 max, but not one that we had used before.

23 Do you see that? That certainly gives
24 the impression that information contained in table 2
25 came from an ergometer other than the Monarch 819,

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1 correct?

2 A. For, let's see, table 2, that would be the

3 VO2 max data for that one time period, which was

4 September of '93, wasn't it?

5 Q. I believe that's correct.

6 A. September of '93. That's possible. That's

7 correct.

8 Q. Now, do you know or have any test data been

9 made available to you of Mr. Armstrong for, say, the

10 years 2000 through 2005?

11 A. No. 2000?

12 Q. Yes, Doctor, I understand that in your report

13 it doesn't cover that time period. We haven't seen

14 any data either, so I just -- with an athlete like

15 Mr. Armstrong and his fastidiousness with looking at

16 his body and his equipment, I assume some testing has

17 been done in that five-year period that hasn't been

18 provided to us. My question simply, as their expert,

19 have they provided that information you?

20 A. Since 2000, no.

21 MR. TOWNS: Pass the witness.

22 MR. BREEN: Do you mind if I pinch hit

23 for Ms. Blue?

24 ARBITRATOR FAULKNER: Go ahead.

25 MR. BREEN: Hopefully I can keep this

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1 very, very brief.

2 REDIRECT EXAMINATION

3 BY MR. BREEN:

4 Q. Dr. Coyle, welcome to the case. These points

5 that are being brought up aren't new in terms of

6 criticisms of your -- the article that was in the

7 journal and the methods that you use; isn't that

8 right? Essentially we are hearing the same rehash of

9 some of the letters -- two letters?

10 A. Right.

11 Q. A whopping two letters that were sent in to

12 the journal about your article; is that right?

13 A. Correct.

14 Q. Now, how many people does the journal go to?

15 Do you know how many subscribers, thousands and

16 thousands?

17 A. Thousands of libraries around the world.

18 Q. All right. Did you get any letters from

19 North America or South America?

20 A. No.

21 Q. Did you get any letters from Europe?

22 A. Yes.

23 Q. You got one, right?

24 A. One from --

25 Q. From Germany?

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1 A. Correct.

2 Q. And if we can pull up, if you don't mind,

3 Respondents' Exhibit 74 and go to page -- which is

4 Bates 1946, up in the top, very top, first paragraph

5 left-hand corner. Although there were a few other

6 items raised earlier and the panel is certainly free

7 to take a look at them, one of the points that was

8 being raised by either -- if it's more than one person

9 or one person from Germany was that in addition to the

10 physiological factors that we have heard about for

11 Mr. Armstrong here today, this particular letter had

12 to do in this part here with the other variables such

13 as tactical race understanding and motivational and

14 psychological issues, right?

15 A. Correct.

16 Q. And it says, although speculative, the latter

17 two might play a prominent role in Armstrong's

18 sporting achievements, especially when considering his

19 unique medical history and human experience as a

20 cancer survivor.

21 Have you tested many cancer survivors?

22 A. No.

23 Q. As elite cyclists?

24 A. No.

25 Q. Were you here when Jay T. Kearney was talking

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1 about sticking his arm in a bucket or barrel of ice

2 water and holding it in there as long as he could?

3 A. Yes.

4 Q. Have you conducted any kind of pain threshold

5 testing in your laboratory on people?

6 A. No.

7 Q. Do you have any idea what Mr. Armstrong's

8 pain threshold must be like?

9 A. I don't have objective data.

10 Q. Right. You haven't been able to do the tests

11 on him, but certainly you've seen what he's been

12 through?

13 A. Yes.

14 Q. You've seen his training regimen, you've seen

15 how he's performed in the Tour de France?

16 A. Yes.

17 Q. It's incredible, isn't it?

18 A. It's remarkable.

19 Q. Now, it also talks about tactical race

20 understanding. You heard Mr. Compton, or if you

21 didn't, talk about cycling being about spinning your

22 legs in a circle. I assume that you know Johan

23 Bruyneel or know of Johan Bruyneel, the director of

24 the Discovery team, right?

25 A. Yes.

1 Q. And you know that he's regarded as probably
 2 the best, if not the best, one of the best race
 3 tacticians in the Tour de France?
 4 A. Yes.
 5 Q. And have you seen through the years in
 6 question, '01 through '04, some of the things that
 7 Johan Bruyneel and the team has done in terms of race
 8 tactics?
 9 A. Yes.
 10 Q. Those things run the gamut from what you
 11 talked about in terms of who blocks the wind, who
 12 brings the food, who pulls Armstrong to the base of
 13 the mountain to also psychological techniques on the
 14 other team, doesn't it?
 15 A. Yes.
 16 Q. Like faking out things, like Armstrong being
 17 worn out, like the famous case where they now refer to
 18 it as the look, when he looked back at Jan Ulrich and
 19 then blew him out of the water in a psychologically
 20 crushing blow, then went on to win the Tour after
 21 that. Do you remember that?
 22 MR. TOWNS: Your Honor, I guess I'll
 23 object at this point.
 24 MR. BREEN: I'll move along.
 25 MR. TOWNS: I mean, it's purely

1 behind you did that very thing in this case?
 2 A. I read that in his deposition, yes.
 3 Q. All right. I don't know what the purpose was
 4 in your examination for these guys asking you some
 5 names of your graduate students. I certainly hope it
 6 wasn't because we are going to hear them for the first
 7 time later on, but have you ever had any of your
 8 students come forward to you and say they had any
 9 problems with this published article at all?
 10 A. No.
 11 MR. BREEN: Thanks for your time,
 12 Dr. Coyle.
 13 ARBITRATOR FAULKNER: Anything else,
 14 Mr. Towns?
 15 MR. TOWNS: No.
 16 MR. HERMAN: May this witness be excused?
 17 ARBITRATOR FAULKNER: Wait. Any
 18 questions from the panel?
 19 ARBITRATOR CHERNICK: No.
 20 ARBITRATOR LYON: I might have one.
 21 ARBITRATOR FAULKNER: Please ask.
 22 ARBITRATOR LYON: These letters that were
 23 written in, the letters to the editor, they basically
 24 describe other ways that could account for
 25 Mr. Armstrong's success, do they not? In other words,

1 argumentative on a topic that this expert is not
 2 qualified for.
 3 MR. BREEN: Well, they just raked the guy
 4 over the coals about his paper, Your Honor. It seems
 5 like we can at least talk about some of the letters
 6 that were sent in here that talk about things that
 7 really matter in the case, but I'll move along.
 8 ARBITRATOR FAULKNER: Okay. Then move
 9 along, please.
 10 Q. (BY MR. BREEN) Now, the second letter was
 11 sent in by somebody in Australia, right --
 12 A. Yes.
 13 Q. -- that you were talking about already with
 14 Mr. Towns, and essentially originally accused you, I
 15 mean, basically of falsifying data or lying in this
 16 thing essentially, right?
 17 A. Yes.
 18 Q. Now, in this particular journal is an
 19 accepted practice, do you think, Dr. Coyle, to go
 20 behind the author of the journal article's back, call
 21 up students that used to be in his lab and try to
 22 scrounge up stuff that contradicts the article? Is
 23 that what they allow you to do in this journal?
 24 A. No.
 25 Q. Do you know that Dr. Ashenden sitting right

1 not just cycling efficiency, but one of the things
 2 that Mr. Breen pointed out was that paragraph about
 3 the sporting achievements, tactical race understanding
 4 and motivational and psychological, all that stuff was
 5 talked about by Mr. -- by Dr. Kearney as to the things
 6 that those letters say could be the reason.
 7 THE WITNESS: Correct.
 8 ARBITRATOR LYON: None of these letters
 9 mention anything about performance enhancing drugs, do
 10 they?
 11 THE WITNESS: No.
 12 ARBITRATOR LYON: Thank you.
 13 ARBITRATOR FAULKNER: Dr. Coyle, we have
 14 seen the letters to the editor. Isn't one of the
 15 basic tenets of scientific examination the concept of
 16 obtaining critiqued reviews and commentary from one's
 17 peers in the field so that you can reexamine your
 18 hypothesis and see if, in fact, the data do match the
 19 theories that you have developed?
 20 THE WITNESS: Absolutely.
 21 ARBITRATOR FAULKNER: So, then, these
 22 letters to the editor are nothing unusual in the
 23 context of scientific inquiry?
 24 THE WITNESS: They're legitimate.
 25 ARBITRATOR FAULKNER: All right, thank

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1 you very much.
 2 Gentlemen, is anyone anticipating calling
 3 Dr. Coyle back? If not, may he be excused?
 4 MR. BREEN: He certainly can from our
 5 side.
 6 MR. TILLOTSON: Yes.
 7 ARBITRATOR FAULKNER: All right. Thank
 8 you very much, Doctor. You may step down and you're
 9 excused. If you want to stay, fine. If not, you
 10 don't have to.
 11 Okay. Who is y'all's next witness?
 12 MR. HERMAN: Bill Stapleton.
 13 MR. TILLOTSON: This is someone from our
 14 office, one of our law clerks that's working on the
 15 case. She came down here to help us get all this
 16 stuff back, so I assume that's no problem.
 17 MR. BREEN: No problem.
 18 ARBITRATOR FAULKNER: No problem.
 19 MR. TILLOTSON: I'm sorry. If you need
 20 her to move, we'll be happy to move her. Is she okay
 21 there?
 22 ARBITRATOR LYON: I don't want anybody
 23 sitting behind me that works for either side.
 24 MR. TILLOTSON: I'm sorry. I apologize.
 25 We are going to move you right here.

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1 ARBITRATOR FAULKNER: Ma'am, what is your
 2 name?
 3 MS. LOWREY: Brandy Lowrey.
 4 ARBITRATOR FAULKNER: Okay. Welcome to
 5 the arbitration, Ms. Lowrey.
 6 BILL STAPLETON,
 7 having been first duly sworn, testified as follows:
 8 DIRECT EXAMINATION
 9 BY MR. HERMAN:
 10 Q. State your name, please.
 11 A. I'm Bill Stapleton.
 12 Q. And you previously testified in this
 13 proceeding, did you not, Mr. Stapleton?
 14 A. Yes, I did.
 15 Q. Okay. Tell the -- tell the panel or at least
 16 refresh us on how you are employed, what you do for a
 17 living.
 18 A. I founded a company called Capital Sports &
 19 Entertainment. I also am the CEO of Tailwind Sports,
 20 Incorporated, and I have been Lance's agent and
 21 manager for 10 or 11 years.
 22 Q. When did you become affiliated with Tailwind
 23 Sports?
 24 A. In the fall of 2003.
 25 Q. All right. Give us a brief description of

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1 your educational background.
 2 A. I went to the University of Texas. I got a
 3 bachelor of arts in biology, an MBA and a law degree.
 4 Q. All from the University of Texas?
 5 A. Yes.
 6 Q. Were you engaged in athletics at a post
 7 secondary school level of competition?
 8 A. Yes. I swam at the university.
 9 Q. And did you pursue your swimming after the
 10 university?
 11 A. Yes. I swam in the Olympic games in 1988.
 12 Q. That was in Seoul, Korea?
 13 A. Yes.
 14 Q. Have you, in addition to your -- in addition
 15 to your biology degree and your graduate degrees, have
 16 you served on any trade or professional agencies,
 17 let's say, since you've been operating at CSE?
 18 A. I was a member of the U.S. Olympic Committee
 19 from about 1992 until about 2004.
 20 Q. And did you serve in any officer or director
 21 capacity with the USOC?
 22 A. I did. From 2000 until about 2004 I was vice
 23 president.
 24 Q. You have been present for at least most of
 25 the testimony and evidence in this case, have you not?

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1 A. Yes, I have.
 2 Q. You've heard the question asked, if Lance
 3 Armstrong was the official winner of the Tour de
 4 France but he didn't follow the UCI rules, that SCA
 5 shouldn't have to pay the money. Basically you've
 6 heard that asserted, have you not?
 7 A. I have.
 8 Q. What -- tell us -- we have seen the
 9 obligation of Tailwind to pay the \$5 million -- or \$10
 10 million actually if Mr. Armstrong was declared the
 11 official winner of the 2004 Tour de France. What is
 12 your position on this question that arises about
 13 official winner versus following the rules, et cetera?
 14 A. Well, I think the -- it's not for me or you
 15 or SCA to decide who the official winner of the Tour
 16 de France is. As the CEO of Tailwind I've an
 17 obligation to pay Lance if he's declared the official
 18 winner by the people who declare him the official
 19 winner, so the question of whether he can cheat and
 20 win or anyone can cheat and win is a question for the
 21 UCI or ASO, not for really any of us.
 22 Q. You mentioned ASO. Tell the panel what the
 23 ASO is.
 24 A. That is the promoter, the French promoter,
 25 that organizes and runs the Tour de France.

1 Q. So if we refer to the Tour de France or
 2 officials of the Tour de France, we are referring to
 3 ASO?
 4 A. Yes.
 5 Q. Okay. I think you were quoted some place as
 6 saying that Tailwind's obligated to pay Mr. Armstrong
 7 if he's the official winner and you would have that
 8 obligation even if he was riding a motorcycle in the
 9 race. What did you mean by that?
 10 A. What I meant by that was that the rules are
 11 set by someone other than Tailwind, and if the rules
 12 were that you could ride a motorcycle in the Tour de
 13 France and Lance won, then he would be declared the
 14 official winner, and it's that body that determines
 15 who wins and who doesn't.
 16 Q. Of course, if he rode a motorcycle, he
 17 wouldn't be the official winner?
 18 A. Well, if the rules were that you couldn't
 19 ride a motorcycle like they are today, then, no, he
 20 wouldn't be the official winner.
 21 Q. Tailwind undergoes audits regularly, do they
 22 not, by a certified public accounting firm?
 23 A. Yes, UCI requires that annually.
 24 Q. What is the reason for an annual audit of a
 25 professional cycling team?

1 A. UCI manages all 20 of the pro tour teams and
 2 it is an obligation to prove financial responsibility,
 3 financial solvency. There have been teams in the past
 4 who have been unable to pay riders, sponsors that paid
 5 late to the teams, and so for that reason they require
 6 an annual independent third-party audit.
 7 Q. Let me hand you, members of the panel, an
 8 exhibit which is marked Exhibit 128. That's not
 9 really the next numbered exhibit, but I had already
 10 numbered some exhibits during the lunch hour, so...
 11 Can you identify, Mr. Stapleton, who Ryan
 12 Parks and Ernst & Young are?
 13 A. Ryan Parks is the day-to-day accountant for
 14 Tailwind, and Ernst & Young is the independent
 15 auditor.
 16 Q. If you'll turn to the second page of
 17 Exhibit 128, there is a statement that based upon the
 18 accounting procedures and audit procedures undertaken
 19 by Ernst & Young, essentially they require you to
 20 reflect as not a contingency or a possibility but as
 21 an actuality the \$5 million indebtedness, that you
 22 have to take that as a loss on your 2004 income
 23 statement and reflect it as a liability on your 2004
 24 and 2005 balance sheets?
 25 A. That's correct.

1 Q. Incidentally, the two bases upon which
 2 Ernst & Young relied in confirming Tailwind's
 3 liability was that Armstrong has completed all
 4 obligations under his agreement and the agreement
 5 clearly identifies the compensation for a sixth
 6 consecutive Tour de France victory, correct?
 7 MR. TILLOTSON: I'm sorry, I do object to
 8 the extent that they're going to seek to try and offer
 9 evidence regarding the state of mind for accountants.
 10 I do not object to them offering evidence that they
 11 booked it as a loss, but to try to then get this
 12 witness to testify why E&Y did that and that somehow
 13 involves some interpretation of the contract, I think,
 14 would be hearsay and there would be no foundation.
 15 MR. HERMAN: Your Honor, we are -- I
 16 think the panel could take judicial notice that Ernst
 17 & Young conducting an audit is bound by generally
 18 accepted accounting principles and by the FASB
 19 standards which are laid out for a FASB 5, the accrual
 20 of loss contingencies which is set out prior to this.
 21 So we don't have to examine the state of mind of the
 22 accountant, but we are -- I think it's competent
 23 testimony for the CEO of Tailwind to say that
 24 Ernst & Young, based upon FASB 5 here, has required
 25 them to book it. So it doesn't require any

1 clairvoyance or understanding of the state of mind.
 2 Mr. Parks is bound by FASB standards.
 3 ARBITRATOR FAULKNER: Wait a second.
 4 I'm going to overrule it. It's already
 5 in evidence, guys. Let me add with regard to this, we
 6 are all fairly familiar with both GAAP and FASB so --
 7 we also know more than I think most of us care to know
 8 about how accounting opinions and recommendations and
 9 communications occur. So, you know, if we could --
 10 that may help expedite this examination a little bit.
 11 So please continue, Mr. Herman.
 12 Q. (BY MR. HERMAN) Did you negotiate the
 13 contract between Mr. Armstrong and Tailwind?
 14 A. Yes.
 15 Q. Now, that occurred -- the one at least that's
 16 at issue in this proceeding was negotiated in the year
 17 2000?
 18 A. That's correct.
 19 Q. Slide two, please. I'm sorry. Is that
 20 correct?
 21 A. That's correct.
 22 Q. And at that time did you have any
 23 responsibility or affiliation with Tailwind?
 24 A. No.
 25 Q. Were you negotiating solely for the interest

1 of Mr. Armstrong?
 2 A. Yes.
 3 Q. And you were his agent at the time?
 4 A. Yes.
 5 Q. There is a provision in the contract which
 6 requires or at least recites that Tailwind will
 7 purchase insurance to pay the bonuses which are
 8 outlined on -- on the projection screen. Why was it
 9 necessary or why did you negotiate that provision?
 10 A. The insurance requirement?
 11 Q. Right.
 12 A. Because we wanted to provide as much
 13 incentive to Lance as possible and -- two reasons,
 14 one, even -- we had some concern that even bonuses
 15 smaller than this, Tailwind would be unable to pay,
 16 and I also wanted to build in an incentive for Lance
 17 to do something historic and reward him for that if he
 18 did it, and the only way to do that was through the
 19 purchase of insurance.
 20 Q. In your negotiations had Mr. Gorski come back
 21 and said, we have got insurance coverage but even if
 22 Armstrong is the official winner, the insurance
 23 company won't be obligated to pay if they think he
 24 shouldn't have been the official winner, what would
 25 your reaction have been?

1 A. I would have told them to look for another
 2 insurance company.
 3 Q. And, of course, it's too late to look for
 4 another insurance company now?
 5 A. That's correct.
 6 Q. Did Tailwind rely at all times, at least
 7 since you've been involved in the company starting in
 8 2003, on the existence of this insurance coverage to
 9 pay the full \$10 million if the liability accrued?
 10 Of course. And not just this 10 million,
 11 five of which has already been paid, but the other
 12 four and a half that he's already been paid. Clearly
 13 we were relying on that because they were paying us
 14 and Tailwind was paying Lance and Lance was cashing
 15 the checks.
 16 Q. Had you not been liable to pay the
 17 performance award in 2004, would you have already paid
 18 the five million, which was insured by CHUBB or
 19 Lloyds?
 20 A. Of course not.
 21 Q. Now, the record reflects that Tailwind paid
 22 \$75,000 to CHUBB and \$75,000 to Lloyds for \$5 million
 23 worth of coverage in 2004. You understand that SCA --
 24 that's what SCA owes Tailwind now is \$5 million for
 25 2004?

1 A. I understand that.
 2 Q. Do you know of any reason that SCA couldn't
 3 have purchased \$5 million of reinsurance or insurance
 4 in 2001 just like Tailwind did?
 5 MR. TILLOTSON: Judge, I will object.
 6 That calls for speculation as to SCA's state of mind.
 7 MR. HERMAN: It doesn't. I'm asking him
 8 if he knows of any reason why.
 9 MR. TILLOTSON: He's asking does he know
 10 of any reason if my client could have gone and done
 11 something with respect to purchasing insurance, and I
 12 would object that that's pure speculation regarding
 13 what my client can do.
 14 ARBITRATOR FAULKNER: I'm sustaining that
 15 objection.
 16 MR. TILLOTSON: Testify as to what you
 17 know, please.
 18 THE WITNESS: So I should testify?
 19 ARBITRATOR FAULKNER: Only as to what you
 20 know. Answer Mr. Herman's next question, please.
 21 Q. (BY MR. HERMAN) Do you know when the \$5
 22 million of insurance with CHUBB and Lloyds was put in
 23 place? If I were to tell you it was put in place in
 24 June of 2001, would that comport with your --
 25 A. That would be right.

1 Q. Now, let me ask you -- let me ask you this,
 2 Mr. Stapleton, if -- in 2002, that was before you were
 3 with Tailwind, correct?
 4 A. Correct.
 5 Q. Had Mr. Armstrong finished second but
 6 believed that the winner had violated UCI rules, would
 7 you have made demand on Tailwind to pay the million
 8 five?
 9 A. In 2002?
 10 Q. Right.
 11 A. No. I would have -- if I really believed
 12 that the winner had cheated, as Lance's agent, as
 13 Lance, I would have gone to the UCI or ASO and taken
 14 my case up with them.
 15 Q. I realize --
 16 A. I wouldn't have expected Tailwind to pay
 17 Lance's bonus regardless of whether it was insured or
 18 not at that point if he wasn't the official winner,
 19 because that's what their contract says as well.
 20 Q. Well, does Tailwind -- assuming Mr. Armstrong
 21 fulfills the liability requirements by being the
 22 official winner, is Tailwind obligated to pay whether
 23 there's insurance or not?
 24 A. Yes.
 25 Q. We have talked about the Ernst & Young audit

1 requirement, but did that change in any way your
 2 opinion as to the Tailwind's liability?
 3 A. No. Tailwind owed him the money.
 4 Q. Conversely, in 2004, I realize you're now
 5 wearing two hats, in essence, but would Tailwind have
 6 paid Mr. Armstrong any money if, under our
 7 hypothetical set of circumstances he finished second
 8 but claimed that the guy in front cheated?
 9 A. No.
 10 Q. Do you have a huge financial stake in the
 11 outcome of this proceeding, Mr. Stapleton?
 12 A. No.
 13 Q. What is -- what would CSE be entitled to if
 14 Mr. Armstrong -- of the \$5 million?
 15 A. 3 percent.
 16 Q. And, of course, Tailwind is not entitled to
 17 anything?
 18 A. That's right. Hopefully reimbursement of
 19 their attorney's fee, but none of the 5 million.
 20 Q. Which have been, unfortunately, sizable as a
 21 result of SCA's refusal to pay?
 22 A. That's correct.
 23 Q. Incidentally, I think it's been suggested
 24 that CSE makes its living off of Armstrong. Tell the
 25 panel what CSE's business is and what percentage of it

1 is related to Lance Armstrong.
 2 A. I started CSE back in 1998, and in 1998 CSE
 3 was Lance and me. Today CSE is a company that has 50
 4 or 60 employees. We do a number of things. We manage
 5 artists, musicians and athletes. We produce live
 6 events. We do marketing, consulting. We do a number
 7 of different things. And Lance probably accounts for
 8 20 percent or so of our revenue.
 9 Q. All right. Let me switch gears with you just
 10 a little bit. When is the first time you heard --
 11 that you were even aware of the existence of SCA
 12 Promotions, Inc.?
 13 A. It must have been August of 2004.
 14 Q. Did you --
 15 A. I may have seen the insurance contracts along
 16 the way, but I wouldn't have paid attention to CHUBB,
 17 Lloyds, SCA. I mean, I may have read it before, but
 18 to say it was a company that I was aware of and knew
 19 where they were headquartered or anything like that,
 20 it would have been August of 2004.
 21 Q. Had you or anyone connected with Tailwind or
 22 Mr. Armstrong, other than ESIX or the insurance
 23 brokers, ever communicated in any way with SCA, to
 24 your knowledge?
 25 A. No.

1 Q. You're aware that this agreement was -- at
 2 least according to Mr. Hamman's testimony, it was
 3 negotiated during the first week or ten days of 2001?
 4 A. Yes.
 5 Q. In SCA's pleadings they say many things, a
 6 couple of which are that it was important to SCA, not
 7 just the fact whether Armstrong had ever engaged in
 8 prohibitive conduct but whether there were facts
 9 suggesting likely or possible use of performance
 10 enhancing drugs and that one of the things that SCA
 11 has uncovered since commencing its investigation and
 12 that SCA claims supports its decision not to pay the
 13 funds to the SCI (sic) was an undisclosed
 14 investigation by French authorities which was opened
 15 in November 2000; you're aware of that?
 16 A. Yes.
 17 Q. After Mr. Hamman's testimony, did you conduct
 18 a search only of the Dallas Morning News from the date
 19 November 25, 2000 through January 10, I believe, 2001?
 20 A. I did.
 21 Q. About a month and a half?
 22 A. Yes.
 23 Q. And did you discover articles that relate to
 24 this, quote, undisclosed investigation?
 25 A. I did.

1 Q. Let me hand the panel copies of Claimant's
 2 Exhibit 124, which is a compilation of those articles.
 3 I think there are some six articles more or less.
 4 Let me talk to you briefly about these
 5 articles. What day was the publication of this -- of
 6 this French investigation in 2000, do you recall?
 7 A. I remember it being Thanksgiving Day or right
 8 around Thanksgiving weekend.
 9 Q. In your job as Mr. Armstrong's agent, what
 10 contact do you have with the press and knowledge of
 11 how the wire services and the press works and so
 12 forth?
 13 A. I have quite a lot of contact with the press,
 14 and on that day I think the initial call I got was
 15 from a reporter.
 16 Q. How would you describe or characterize the
 17 level of publicity or the sort of splash that this
 18 French investigation had?
 19 A. It was explosive and it was intense. It was
 20 as much press as I can ever remember about anything
 21 regarding Lance.
 22 Q. If you would take a look at Exhibit 124, the
 23 first article is over 500 words. It's from the Dallas
 24 Morning News. Do you recall whether this was front
 25 page?

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1 A. This is the first one?
 2 Q. Yes.
 3 A. It was either front page or front page of
 4 sports. I believe it was front page, but I can't
 5 remember exactly.
 6 Q. Would a person who read the sports pages,
 7 even semi-faithfully, have been able to avoid this?
 8 A. You could not have missed it.
 9 Q. The next item that was published in The
 10 Dallas Morning News, December 3rd, referring to the
 11 frozen urine samples, which I believe you heard
 12 Mr. Armstrong testify about yesterday. Did the story
 13 splash and then die out or did it live on?
 14 A. It lived on and there were flash points. The
 15 firs -- from November through January was a flash
 16 point. It was pretty constant. There was another
 17 flash point again in April, and Lance went to France
 18 for the first time since it had happened. There was a
 19 flash point in June, July, during the tour. So it
 20 would come and go in terms of big headlines, but it
 21 was always there.
 22 Q. Has Tailwind ever been -- prior to the time
 23 they came to owe the \$5 million, has Tailwind ever
 24 been informed by SCA that -- that hang on a second, if
 25 we had known this, we would have never entered this

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1 and consequently we are rescinding the contract?
 2 A. Well, I wasn't the CEO of Tailwind, but I
 3 believe Mr. Gorski has testified that he was never
 4 notified and I certainly wasn't after I became CEO.
 5 Q. Has SCA ever refunded any of the \$420,000 in
 6 premiums?
 7 A. No.
 8 Q. The next article in The Dallas Morning
 9 News -- and why did you just pick the Dallas Morning
 10 News?
 11 A. Well, because it's in Dallas and that's where
 12 SCA is. There were plenty of other places to find it.
 13 MR. TILLOTSON: May I interrupt for just
 14 one second. This is an objection but also a question.
 15 I assume that this was just pulled off the Internet,
 16 copied and then printed out by this witness; is that
 17 what we're looking at?
 18 MR. HERMAN: It was pulled out of The
 19 Dallas Morning News archive.
 20 MR. TILLOTSON: Tell me where it came
 21 from. I won't lodge any objection. I assume that's
 22 what it is. If you'll just tell me where it came
 23 from.
 24 MR. HERMAN: It came from The Dallas
 25 Morning News archive, which for a fee you can purchase

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1 stories which have run previously, but we did not put
 2 the eye shade on him and send him up into the Dallas
 3 Morning News historical stacks or anything. He got it
 4 off the Internet.
 5 MR. TILLOTSON: Okay. Is there any way
 6 to tell where in the paper it was?
 7 MR. HERMAN: Apparently --
 8 MR. TILLOTSON: Or is it just a
 9 collection of news stories?
 10 MR. HERMAN: I don't know the answer to
 11 that. If -- there may be. We didn't try to do that.
 12 MR. TILLOTSON: I don't have any
 13 objection to them using them and offering these
 14 articles.
 15 ARBITRATOR FAULKNER: Okay.
 16 MR. TILLOTSON: I'll be offering my own,
 17 so I don't have any objection.
 18 ARBITRATOR FAULKNER: If there's no
 19 objection, we will admit this as Claimants' Exhibit
 20 124.
 21 Before you go too far afield, Mr. Herman,
 22 I don't remember you offering for admission Claimants'
 23 Exhibit 128, which you had used early. First of all,
 24 are you going to offer it?
 25 MR. HERMAN: Yes, I do offer it.

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1 ARBITRATOR FAULKNER: Do you have an
 2 objection to Claimant's 128?
 3 MR. TILLOTSON: Is this the e-mail?
 4 ARBITRATOR FAULKNER: Yes.
 5 MR. TILLOTSON: No, I don't.
 6 ARBITRATOR FAULKNER: I want to keep our
 7 records straight, guys, so thank you very much.
 8 MR. TILLOTSON: The e-mail is 128?
 9 MR. HERMAN: Yes.
 10 MR. TILLOTSON: And the articles are 129?
 11 MR. HERMAN: No, 12.
 12 ARBITRATOR FAULKNER: I don't know why
 13 they're out of sequence, but those are the numbers I
 14 have.
 15 MR. HERMAN: Well --
 16 ARBITRATOR CHERNICK: We'll have a
 17 filler.
 18
 19 ARBITRATOR FAULKNER: Thank you. Please
 20 proceed.
 21 Q. (BY MR. HERMAN) Without going through the
 22 substance of these articles -- and there's another
 23 article December 13, another article December 17 and
 24 then a lengthy wire service article December 18. If
 25 it shows an Associated Press authorship, what does

1 that indicate, Mr. Stapleton?
 2 A. Well, it usually means it's widely
 3 distributed, worldwide probably.
 4 Q. Then the last Dallas Morning News article is
 5 dated January 5, 2001, which you know to be in the
 6 middle of Mr. Hamman and Mr. Lorenzo's negotiation of
 7 their reinsurance, right?
 8 A. That's right.
 9 Q. In your view, Mr. Stapleton, is the -- do you
 10 find that -- or is it your position that this was a
 11 widely publicized incident?
 12 A. Intensely widely publicized.
 13 Q. Now, the Texas Monthly is published here in
 14 Texas obviously?
 15 A. Uh-huh.
 16 Q. Let me show you what's marked as Exhibit
 17 125, which is a 17-page article. Incidentally I
 18 offered -- I don't know if I offered but I offer
 19 Exhibit 124.
 20 ARBITRATOR FAULKNER: I think it's
 21 already in.
 22 ARBITRATOR CHERNICK: It's in.
 23 MR. TILLOTSON: 124 has been admitted.
 24 MR. HERMAN: Okay. 125 was appended to
 25 one of our pleadings, Your Honor, Mr. Chairman, but it

1 Q. Would it be difficult being a Texan and not
 2 to be aware of this kind of coverage?
 3 A. It's unbelievable to me that somebody could
 4 have missed this.
 5 Q. Now, later on that year, during -- during the
 6 tour, did -- were -- did there continue to be the sort
 7 of rumor or innuendo, accusation, et cetera, that you
 8 all had apparently become accustomed to?
 9 A. Later in 2001?
 10 Q. Yes.
 11 A. I can't remember anything specific, but I'm
 12 sure there probably was.
 13 MR. HERMAN: Your Honor, we offer
 14 Exhibits 125 and 126 and 127, which have been
 15 previously appended to our pleadings, but have --
 16 ARBITRATOR FAULKNER: Any objection to
 17 125?
 18 MR. TILLOTSON: I have no objection to
 19 the Texas Monthly article, so 125, no.
 20 ARBITRATOR FAULKNER: 125 is admitted.
 21 ARBITRATOR CHERNICK: 126 is the document
 22 that's headed Triple Play, and 127 is the document
 23 that's headed Sports Cycling.
 24 MR. HERMAN: Exactly.
 25 MR. TILLOTSON: I don't have any

1 is not in evidence yet.
 2 ARBITRATOR FAULKNER: Okay.
 3 Q. (BY MR. HERMAN) Could you describe what
 4 Exhibit 125 is?
 5 A. This was a cover story in Texas Monthly,
 6 July 2001.
 7 Q. Was Mr. Armstrong's picture on the cover?
 8 A. The cover was his whole face; that was it.
 9 Q. And if this is the July 2001 issue of Texas
 10 Monthly, approximately when would that have hit the
 11 newsstands in your experience?
 12 A. Late May or early June.
 13 Q. And is there an extensive description of not
 14 only the French investigation but numerous other
 15 allegations which Mr. Armstrong answered yesterday?
 16 A. Well, this article, which we were not too
 17 happy about, was really America's introduction to
 18 David Walsh and to all the skeptics. This article is
 19 nothing but drugs, and it's -- I can't remember
 20 it's -- I don't know how many words. It's a very long
 21 article, and it's sort of an entire sort of review of
 22 Lance and drugs and the tour and drugs, and there's an
 23 implication, I think, when you read this -- Michael
 24 Hall was the author -- that Lance is a dooper. I think
 25 that's what he tried to imply in this article.

1 objection to 126 or 127.
 2 ARBITRATOR FAULKNER: Then they will be
 3 admitted without objection.
 4 Q. (BY MR. HERMAN) Let me change subjects here
 5 with you, Mr. Stapleton, and let's talk about the
 6 negotiation of sponsor contracts. Tell the panel what
 7 you have the do with the negotiation of -- or
 8 bargaining for sponsor contracts with persons who wish
 9 to have Mr. Armstrong as a spokesman.
 10 A. Well, in terms of how I do it or --
 11 Q. What's your role?
 12 A. My role is I negotiate and execute and manage
 13 all those contracts for Lance.
 14 Q. And you have been doing that for some 10 or
 15 11 years?
 16 A. Uh-huh.
 17 Q. Is it even within the realm of possibility
 18 that an entity would risk nine and a half million
 19 dollars based upon something they read in the paper?
 20 A. No one I've ever negotiated with would ever
 21 do that. And, in fact, every company that I've
 22 negotiated with on behalf of Lance or on behalf now of
 23 Tailwind since 1999 this has been a topic of
 24 conversation every single time.
 25 Q. The suggestion -- well, actually the outright

1 allegation is that statements by Mr. Armstrong in
 2 response to accusations or whatever, that that could,
 3 you know, provide the basis for SCA's decision to
 4 issue nine and a half million dollars' worth of
 5 insurance; you're aware of that?
 6 A. Yes, I am.
 7 Q. Of course, neither you nor Mr. Armstrong have
 8 ever made any statement directly to SCA?
 9 A. No.
 10 Q. Nor anyone with Tailwind, as far as you know?
 11 A. Correct.
 12 Q. Now, this issue of rumors about performance
 13 enhancement. Tell the panel how those issues have
 14 arisen and been dealt with in your contract
 15 negotiations with sponsors.
 16 A. Well, typically, you know, it depends on at
 17 what point in time we are having a conversation.
 18 During the period of time that this French
 19 investigation was going on, we had a renewal
 20 conversation going on with Coca-Cola. Coca-Cola is a
 21 125-year-old brand, probably of all the companies I've
 22 dealt with, one of the most, I would say, paranoid
 23 companies about their brand and anything that might
 24 attach to it that could be negative. And so by -- by
 25 Thanksgiving of that year we had worked out most of

1 the terms of the new contract. They wanted Lance to
 2 be -- their contract ran out at the end of 2001, and
 3 they wanted him to be very associated with the torch
 4 relay that they sponsor in the 2002 Winter Olympic
 5 games in Salt Lake City. So in order to do that,
 6 their contract needed to extend beyond December 2001,
 7 and this happened, this announcement of the
 8 investigation. I got a phone call from the -- a guy
 9 named Bill Ferguson who I had been negotiating the
 10 deal with, and his senior people at Coke wanted to
 11 have a meeting. And they wanted me to look them in
 12 the eyes and tell them what I thought about this. So
 13 we actually flew to Dallas. They flew from Atlanta; I
 14 flew to Dallas. We met at the American Airlines
 15 Admiral's Club in the conference room, and the senior
 16 guy at Coke asked me: I need you to look me in the
 17 eye; I need you to tell me that I don't have anything
 18 to worry about here, and I need you to give me what I
 19 need in terms of your word. And I said, I'll do
 20 better than that. I'll give you a contractual
 21 provision that gives you a total and complete out, and
 22 I'll offer to refund the money you've paid us if this
 23 investigation ever turns anything up in terms of a
 24 positive test or if it ever happens in any other
 25 setting. And that was good enough for them.

1 We have had other situations -- well,
 2 every contract we have done the question gets asked.
 3 These people are spending in some cases -- the
 4 Discovery Channel relationship with Tailwind, \$10
 5 million a year. In some cases a few million dollars a
 6 year. And they want assurances that there's nothing
 7 to worry about on this issue, and we always give them
 8 to them.
 9 Q. Have you ever negotiated a contract of any
 10 substance where there was not a request for and an
 11 inquiry about this issue given the volume of
 12 background noise, particularly from the French?
 13 A. No. And, in fact, maybe the best example is
 14 Discovery Channel. U.S. Postal Service sponsored
 15 Lance's team before I became the CEO. I became the
 16 CEO in the fall of 2003, and their relationship ended
 17 in December of 2004, which would have been Lance's
 18 sixth Tour de France. It was my job and my company's
 19 job to find a new title sponsor. We found a new title
 20 sponsor, the Discovery Channel. We planned a big
 21 announcement in Silver Spring, Maryland where they're
 22 headquartered, and this is another company that's
 23 totally associated with quality. Any association with
 24 anything negative completely, completely freaks them
 25 out.

1 And the Saturday night before the Tuesday
 2 announcement in Silver Spring, I got word that David
 3 Walsh's article was being -- or the article that was
 4 authored by David Walsh but written by someone else in
 5 the Sunday Times came out that previewed his book and
 6 the allegations in his book.
 7 I had told the Discovery Channel while we
 8 were negotiating, look, there's something that may
 9 come up here. Here's David Walsh -- I was very
 10 straightforward about it -- and I think there's an
 11 article or something coming but I don't know what it
 12 is. I called Billy Campbell who is the president of
 13 the Discovery networks who I negotiated with Sunday
 14 morning --
 15 Q. Incidentally -- let me interrupt you there --
 16 do the Discovery Networks operate internationally and
 17 throughout Europe?
 18 A. 165 countries.
 19 Q. And just to give sort of a perspective, if
 20 the time -- if the Sunday Times article previewing
 21 this LA Confidential book or containing excerpts
 22 perhaps, was to be published on June 14th, a Sunday,
 23 you would have found out about it June 13th?
 24 A. Saturday night. I heard about it -- I heard
 25 about it in an e-mail from someone, and I read it on

1 the Internet.
 2 Q. And the announcement of -- no one knew about
 3 this relationship or potential relationship?
 4 A. No.
 5 Q. That would have been scheduled for Tuesday --
 6 A. 16th.
 7 Q. June 16th of 2004?
 8 A. Correct.
 9 Q. I didn't mean to interrupt you but just to
 10 give everybody sort of a perspective. Go ahead.
 11 A. So Billy and I got on the phone Sunday
 12 morning; we read the article together. I had,
 13 fortunately, been straightforward with him about our
 14 past history with David Walsh and about all the doping
 15 allegations that had surrounded Lance, and these
 16 guys -- they're international, they're sophisticated,
 17 they had done their own due diligence on Lance and
 18 David Walsh and that relationship, and just like every
 19 other company that we entered into contracts that did
 20 that research, they -- especially international
 21 companies like Discovery Channel, Coca-Cola,
 22 Bristol-Myers Squibb -- they always were -- sort of
 23 when they went to their London or English or Irish
 24 people and got their opinion of David Walsh and Lance,
 25 it was always that Walsh is a well-respected sports

1 order to build a program that we could develop younger
 2 riders and prove that the franchise value we had built
 3 with Lance and the Postal team, now the Discovery
 4 team, was something we could recreate.
 5 Q. Did you give them the opportunity to back out
 6 of the deal, not do the deal if they were in any way
 7 upset or dissatisfied or scared off by David Walsh?
 8 A. They had the -- they had my word and they had
 9 a contract that said the same thing, so in those 48
 10 hours they could have walked away and no one would
 11 have ever really known that it -- there was -- there
 12 may be a rumors that Lance and Johan Bruyneel were
 13 flying to Washington D.C. for an announcement.
 14 There's only two or three Fortune 500
 15 companies that would do something like this, but there
 16 would have been no damage done to them had they walked
 17 away, and they had every opportunity to do it. And
 18 they decided to go ahead, and, in fact, at a time when
 19 the first announcement of Lance and the Discovery
 20 Channel and the Discovery Channel pro cycling team --
 21 it was Lance's first opportunity to meet the press
 22 since the allegations that David Walsh had put forth
 23 came out.
 24 So the -- most of the headlines for them,
 25 they weren't about the Discovery Channel. They were

1 journalist. He's been sports writer of the year in
 2 Britain two or three times, but when it comes to the
 3 subject of cycling, of drugs in sport and in --
 4 especially with regard to Lance, he loses his
 5 professional objectivity and he's on a mission and a
 6 vendetta. And that comes independently from those
 7 companies from their sources.
 8 So fortunately Billy and Judith McHail,
 9 who is their CEO, and John Hendricks, who is their
 10 founder who I talked to each as they were entering
 11 this deal about this issue -- they knew that history.
 12 But they had a contract that nobody knew about for 31
 13 million bucks, two years of which -- a four-year
 14 contract, two years of which they knew Lance wasn't
 15 even going to be riding his bike, so this year and
 16 next year, they're still spending the same amount of
 17 money to sponsor the bike team that we own and
 18 operate, and Lance is going to be at the Tour de
 19 France helping entertain guests. We are not going to
 20 win the Tour de France this year, and they knew that
 21 going in. They had an opportunity there in those 48
 22 hours to cancel the contract, to walk away, to come to
 23 me and say, you know, we didn't really like the idea
 24 of four years, and we are going to do two now, because
 25 we told them it was critical that we have four in

1 about Lance and David Walsh and they suffered for
 2 that, but they stuck by it because they did their own
 3 independent due diligence. They believed in Lance.
 4 Billy believed in me. We were the two that cut the
 5 deal. He had checked out my integrity with the CEO of
 6 Bristol-Myers Squibb, Peter Dolan. He had called Bill
 7 Knight, he knew that there was a long history of
 8 integrity and business dealings, and they stayed on.
 9 Q. Now, in any public statement you have made or
 10 anyone with Tailwind or anyone with CSE, have you ever
 11 had the intention of directing a statement to an
 12 insurance company for the -- with the reasonable
 13 expectation that they would rely upon what they read
 14 in the paper to make their business decision?
 15 A. No. I don't even make those statements to --
 16 directly to Lance's sponsors. I direct the statement
 17 like that to people that I don't even know. People
 18 that may have been influenced by something they read
 19 in the newspaper who were either fans or cancer
 20 survivors or people that have a stake in the game,
 21 that we don't talk to every day, but those statements
 22 are certainly never intended to be directed at an
 23 insurance company, and they're not even meant to be
 24 directed at Nike, Bristol-Myers Squibb, because those
 25 people rely on the statements I make to them in

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1 business meetings, on the telephone, over dinner and
 2 also in the day-to-day way we manage Lance and his
 3 contract and the promises we make. Those people make
 4 those decisions completely outside of any
 5 representations I might make in a press release or a
 6 public statement.

7 Q. You mentioned providing subjective contract
 8 provisions with these sponsors in the event they
 9 didn't like something that might happen during the
 10 course of the agreement. Give us -- you know, without
 11 verbatim tell us typically what those provisions
 12 provide.

13 A. Well, it's the moral turpitude clause in the
 14 contract, and it would say that if -- for instance,
 15 Discovery Channel team contract says something like if
 16 Lance or any of the riders do something that would
 17 bring the Discovery Channel or any of its affiliates
 18 into -- into a bad light or anything that would
 19 reflect poorly on them, that they have an option to
 20 terminate the contract.

21 Q. And is that --

22 A. And so it's really at their subjective
 23 discretion.

24 Q. Why would you -- no offense, but if you're
 25 aggressively representing Lance Armstrong, why would

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1 you allow such a subjective analysis or provision to
 2 be put in one of your endorsement contracts?

3 A. I think there's two reasons. One is there's
 4 an issue out there that we all have to deal with when
 5 we make a deal. There are people who say Lance is a
 6 dooper. And so you need to give people a contractual
 7 assurance that if I'm lying or Lance is lying or
 8 there's some big conspiracy, they can walk away.

9 Secondly, I don't have any -- I don't
 10 worry about it. I don't lose any sleep over whether a
 11 company is going to cancel a contract because
 12 someone's proved that he's a dooper, because it's not
 13 going to happen, because it's not true.

14 Q. Well, have you ever had a sponsor pull out or
 15 cancel an existing agreement because Lance Armstrong
 16 brought disrepute or shame on them as a result of
 17 these -- which are, you know, accusations that
 18 originated with the French and have now spread
 19 everywhere?

20 A. No. And with Lance if you look at his sort
 21 of portfolio of companies that he's worked with,
 22 these -- these are all long-term partnerships that
 23 have been extended -- Bristol-Myers Squibb, for
 24 example, started in '99; nike started in '95. The
 25 Discovery Channel is two or three years old now.

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1 Coca-Cola started in 2000 and these people all renewed
 2 their contracts in the last year, amidst all of this.
 3 Amidst the book that David Walsh published and
 4 everything, and they made commitments to Lance beyond
 5 this year. Bristol-Myers Squibb is in until 2008.
 6 The Discovery Channel is in until 2007. We just did a
 7 new contract for Lance that's three years long.
 8 There's not one day of that contract that he'll be
 9 riding his bicycle. So these people developed
 10 long-term partnerships, and those don't happen -- the
 11 fact that he's not a dooper is part of it, but the fact
 12 that they do business with us and we deliver on the
 13 promises we make over time and they know they can
 14 trust us is the reason that he has these long-term
 15 partnerships.

16 Q. Tell us -- you mentioned Bristol-Myers
 17 Squibb. Tell us how persnickety they are about
 18 pharmaceuticals and particularly prohibited drugs.

19 A. Well, there's actually been a rumor in
 20 l'Equipe that the Bristol-Myers Squibb relationship is
 21 a pharmaceutical relationship with Lance and
 22 Bristol-Myers to produce performance enhancing drugs
 23 for them. But the truth of the matter is that if you
 24 look at that category they have been -- over the last
 25 five years just absolutely bombarded with negative

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1 public relations and Bristol-Myers Squibb, in
 2 particular, had an inventory stuffing issue two or
 3 three years ago with the now existing CEO -- is one of
 4 the youngest Fortune 500 CEOs and people thought he
 5 was going to be gone.

6 So there's been an enormous amount of
 7 flux and change and paranoia at that company about
 8 their public image, and they have renewed with
 9 Lance -- the first relationship was in '99. It ran
 10 through 2000. It was one of the contracts we renewed
 11 during the French investigation. It renewed until
 12 2004, I believe, and then it was renewed then after
 13 David's book through 2008.

14 Q. Incidentally, l'Equipe is the newspaper that
 15 published this business about 1999, correct?

16 A. Yes.

17 Q. Any other stories about Lance published by
 18 l'Equipe that warrant mention here?

19 A. If you have a sense of humor. They have
 20 published that Lance is -- that the Pope and the
 21 Catholic church are out to get Lance because he's not
 22 Catholic and not religious. They have published that
 23 he has a computer program that if he's sitting near
 24 your computer, he can download all of your e-mails in
 25 your inbox so he can make sure that -- that he's so

1 paranoid of everyone around him so he would sit and
2 check my inbox to make sure I'm not doing anything
3 that I shouldn't be.

4 There's one more really good one.

5 Q. That's all right. I think we have the
6 flavor.

7 A. Just for the panel I consider l'Equipe a
8 tabloid. They -- they have had a vendetta, very
9 clearly, against Lance since 1999. They are not
10 unbiased, and I have experienced that firsthand
11 and they will write -- oh, the other one is these
12 right here, 60 million of these to save -- to fight
13 cancer. They reported that that money goes directly
14 to Lance, not to his foundation, that he profiteers
15 off of yellow wristbands.

16 That was not very funny.

17 Q. The --

18 ARBITRATOR CHERNICK: If you're changing
19 subjects, can we take five minutes?

20 MR. HERMAN: Sure, sure.

21 ARBITRATOR FAULKNER: Five-minute
22 facilities break.

23 (Recess 2:06 p.m. to 2:16 p.m.)

24 ARBITRATOR FAULKNER: Mr. Herman, you
25 still have your witness.

1 felt like he was lied to and since then he has been on
2 a mission to expose the sport. He's questioned every
3 big achievement, and the biggest one obviously being
4 Lance and seven tours.

5 Q. Well, did -- Mr. Walsh interviewed
6 Mr. Armstrong in 2001, did he not?

7 A. Yes.

8 Q. And in your -- in your relationship with the
9 press, which is apparently fairly significant, in --
10 subject, you know, to prevailing journalistic
11 standard, is it okay to pay people for quotes and so
12 forth in this kind of a situation?

13 A. In my opinion, that's tabloid. You don't pay
14 people to say things. You don't pay people to tell
15 you anything in an editorial or newspaper context, so,
16 no, I don't think that's okay.

17 Q. And you know Mr. Walsh denied paying anyone
18 associated with his book, and later when it was
19 finally exposed, that he did pay Emma O'Reilly for her
20 story?

21 A. Yes. I know that when the book came out, he
22 got a tremendous amount of public, you know, sort of
23 publicity about it. At the time he was asked -- at
24 the time it was published he was asked, did you pay
25 anyone. So at the time that it would have been the

1 Q. (BY MR. HERMAN) Mr. Stapleton, you had
2 mentioned during your earlier testimony that, for
3 example, the Discovery Channel did its own due
4 diligence on Walsh and was aware of your past or
5 Lance's -- or Walsh's past history with Lance. Tell
6 us -- prior to, let's say, May or June of 2004, tell
7 us what that relationship was and what Mr. Walsh's
8 conduct had been like prior to that.

9 A. Well, I first heard of David Walsh in the
10 spring of 2000. He -- we had heard that he was
11 writing a doping article about Lance, and it has been
12 since -- never -- it's not a relationship that occurs
13 very often. David wrote a big article in -- I'm
14 blanking on whether it was July of 2000 or July of
15 2001 right now. It was July of 2000. And then he
16 went quiet. He would occasionally write a column, and
17 then he wrote his book, and it had been one that I
18 think -- I think David was a -- he covered cycling in
19 the '90s. He wrote an autobiography of Sean Kelly who
20 was a very famous Irish rider. David never told me
21 this, but I understand from what people have told me
22 about his view on the sport of cycling and whether
23 people are honest with him or not.

24 I believe later Sean Kelly admitted to
25 doping and they had a close relationship and David

1 most damaging, he denied it. Then he later admitted
2 it, which for me calls into question every witness in
3 that book and whether they're lying about whether they
4 were paid or not. But he clearly did it with Emma
5 O'Reilly.

6 Q. In your -- just talking about your contact
7 with David Walsh with respect to requesting
8 interviews, asking questions, that sort of thing,
9 would you say that Mr. Walsh's conduct conformed to
10 generally prevailing journalistic standards in that
11 regard?

12 MR. TILLOTSON: I'm sorry. I object. I
13 don't see how this witness can be qualified to testify
14 regarding that opinion.

15 ARBITRATOR FAULKNER: Okay.

16 MR. HERMAN: Based upon --

17 ARBITRATOR FAULKNER: Wait. I'm going to
18 sustain the objection. There's been no qualification
19 he's a journalist. Go ahead. Next question, please.

20 Q. (BY MR. HERMAN) Based upon the practices to
21 which you have been exposed in the cycling press, both
22 in the United States and Europe, does Mr. Walsh -- has
23 Mr. Walsh's conduct been consistent with the -- with
24 what you have seen and been exposed to?

25 A. No.

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1 Q. Tell me -- tell me this, Mr. Stapleton, when
 2 is the first time you had any idea that Mr. Walsh was
 3 working on a book?
 4 A. When I read the Sunday Times article
 5 June 14th, 2004, having asked him many times. He was
 6 trying to get an interview with Lance. He contacted
 7 me by fax, May 19th or so, 2004. The fax came with no
 8 cover sheet, no e-mail, no return fax, so I spent
 9 three or four days trying to track him down. I had an
 10 old e-mail address for him. I sent an e-mail to him,
 11 I copied the sports editor of the Sunday Times, heard
 12 back from David. We have had a long, contentious
 13 relationship with David.
 14 A period of a few weeks ensued where I
 15 asked for the questions he wanted to ask Lance. I
 16 asked him what he was writing, what his deadline was.
 17 He told me he needed to interview Lance within the
 18 next seven days because after that he was heading to
 19 Euro 2004 Soccer Cup, I think it was in Portugal, and
 20 he would be unavailable at that point. I assumed the
 21 entire time that he was writing like he had in the
 22 past for a Sunday Tour de France article. The Tour de
 23 France always starts on Saturday. That year it
 24 started on July 3rd. So I assumed he was writing an
 25 article for July 4th, and there was an interchange

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1 between David and I where I suggest that Lance has a
 2 big race that he's preparing for.
 3 Q. Which was what?
 4 A. The Dauphine, which is the biggest preTour de
 5 France race in France. That we can either try to set
 6 something up over the phone after that or even better,
 7 sit down -- Lance arrives at the Tour usually on
 8 Wednesday before the Saturday start and they could sit
 9 down and talk then, and I, of course, wanted to be
 10 there.
 11 Q. Well, Mr. Stapleton, if -- if -- just assume
 12 with me that Mr. Walsh began this book at the end of
 13 2002, that he did all of his research and interviews
 14 in 2003. Did Mr. Walsh indicate to you why it was
 15 that -- lance Armstrong as the subject of the book --
 16 he waited until six or seven days before his alleged
 17 deadline to even contact you?
 18 A. He said he needed to do all of his research
 19 before he approached Lance for his interview, which
 20 consisted of, as I remember, seven or eight questions
 21 in total. That was Lance's opportunity to respond to
 22 all of -- he was not willing to put it in context
 23 of -- of what it was -- when I asked him what he was
 24 writing, I didn't know he was writing a book. I
 25 assumed it was an article. He wouldn't even tell me

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1 he was writing a book.
 2 Q. And to your knowledge, were Johan Bruyneel or
 3 George Hincapie or Chris Carmichael or anyone
 4 contacted any earlier than you were?
 5 A. No.
 6 Q. Did you become aware of Mr. Walsh doing an
 7 interview on French radio?
 8 A. Yes.
 9 Q. And based upon your best recollection, can
 10 you tell us when that was?
 11 A. It was early in the Tour 2004. I think it
 12 was -- I think it was Sunday night, the 4th.
 13 Q. And what was the substance of -- or what
 14 was -- what were some of the information, at least,
 15 that Mr. Walsh quoted or stated on -- during this
 16 interview?
 17 MR. TILLOTSON: Well, I would object as
 18 hearsay, for this witness to say what Mr. Walsh said
 19 on a French radio in light of the fact that Mr. Walsh
 20 is coming live. He can be asked what he said, unless
 21 there's a transcript.
 22 MR. HERMAN: It really doesn't have
 23 anything to do with anything, because it has to do
 24 with the allegations that SCA has made, but the issue
 25 of this -- what SCA has described as stunning,

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1 explosive, amazing, dark conversation that
 2 Mr. Stapleton had with Mr. Andreu relates directly to
 3 this -- the statements that Mr. Walsh made. I mean,
 4 I'm not offering them for the truth of the matter.
 5 I'm offering them to show what it was -- the subject
 6 of Mr. Andreu's conversation with Mr. Stapleton and
 7 Mr. Knaggs.
 8 ARBITRATOR FAULKNER: And that
 9 conversation occurs after this interview with Mr.
 10 Walsh occurred on the French radio?
 11 MR. HERMAN: Yes.
 12 MR. TILLOTSON: If I may ask a clarifying
 13 question. Are you trying to lay some predicate for
 14 linking this to Mr. Stapleton's conversation with
 15 Mr. Frankie Andreu?
 16 MR. HERMAN: Yes.
 17 MR. TILLOTSON: In that light, in that
 18 context, since I plan on using that transcript, I
 19 don't want to be precluded in any way from doing that,
 20 so I'll withdraw my objection and let you lay that
 21 foundation.
 22 ARBITRATOR FAULKNER: Okay. You can
 23 answer the question if you can remember it.
 24 Q. (BY MR. HERMAN) What did Mr. Walsh say
 25 during this interview?

1 A. He said that Betsy Andreu, Frankie's wife,
2 was going -- was willing -- he was defending his book
3 and the sources in it, and he said that one of the
4 sources, Betsy Andreu, was willing to testify against
5 Lance in France and was one of the primary star
6 witnesses in this case -- in his book.

7 Q. And by this time had the proceedings, the
8 libel and slander proceedings in France been commenced
9 against la Martiniere?

10 A. No, they had been commenced in the UK and
11 they were commenced in France after the Tour.

12 Q. What did -- what was the allegation that was
13 contained in the book or what was the story in the
14 book that Mr. Walsh had claimed that Ms. Andreu had
15 told him?

16 A. The story we have heard about the six people
17 plus Lance that were in an Indiana University hospital
18 room when he allegedly admitted to using performance
19 enhancing drugs.

20 Q. Now, those six people, again, are alleged to
21 be Frankie and Betsy Andreu, Page and Chris
22 Carmichael, Stephanie McIlvain?

23 A. And Lisa Shiels.

24 Q. Lisa Shiels. And you were not included in
25 that group, correct?

1 duplicitous to say the least, but this allegation
2 about the hospital room?

3 A. I asked Lance about it obviously, when the --
4 before the tour I asked him about it, and he said it
5 never happened. I asked Chris about it.

6 MR. TILLOTSON: This I would object to as
7 hearsay if he's going to report what Mr. Carmichael
8 supposedly said, it's clearly being offered for the
9 truth of the matter to disprove the occurrence of the
10 event.

11 ARBITRATOR FAULKNER: Any response?

12 MR. HERMAN: Yes, if -- if this witness,
13 again, has been accused of strong arming somebody here
14 and has been -- his conduct has been characterized as
15 desperately looking for people to disprove this
16 incident, and I think he's entitled to say -- whether
17 it did or didn't happen is not the issue. The
18 question is what he was told by Mr. Carmichael. That
19 doesn't prove it didn't happen, but it does prove his
20 state of mind, that -- that he had -- what he did and
21 how he went about doing it, so that's not being
22 offered for the proof of whether the incident in the
23 hospital happened or not.

24 ARBITRATOR FAULKNER: We are not bound by
25 the strict rules of evidence. I'm going to let you

1 A. That's right.

2 Q. Did that strike you as odd?

3 A. Yes. I mean, I was there -- there were three
4 or four -- there were two or three of us that were
5 there the entire time he was sick so, yes, it struck
6 me as odd, but certainly within the realm of
7 possibility that they could have been in a room that I
8 wasn't in.

9 Q. And had you ever -- up until somewhat
10 recently did you believe at the time that -- that the
11 incident described -- actually did just involve those
12 six people?

13 A. Yes.

14 Q. Okay. Now, you are in -- you're in France at
15 the Tour de France on July 4th when you hear this
16 interview, whatever, correct?

17 A. Uh-huh.

18 Q. Then is Mr. Carmichael at the Tour de France?

19 A. Yes.

20 Q. Mr. Armstrong is obviously at the Tour de
21 France?

22 A. Yes.

23 Q. Did you ask -- what, if anything, did you ask
24 Carmichael and Armstrong about this alleged
25 allegation -- I mean, or this -- that would be

1 pursue this a little more, but if that's your goal,
2 would you go ahead and focus a little bit more on that
3 goal, please?

4 MR. HERMAN: I'm trying to move in that
5 direction, Mr. Chairman.

6 ARBITRATOR FAULKNER: Okay.

7 Q. (BY MR. HERMAN) So as of -- as of July 12th,
8 let's say, which would have been a week into the Tour,
9 how many of the six people that are alleged by
10 Mr. Walsh to have been in this room had you contacted?

11 A. Well, there were seven people in the room,
12 including Lance, so three.

13 Q. And when did you talk to Mr. Andreu?

14 A. I don't remember the exact date.

15 Q. It would have been during the Tour de France?

16 A. Yes, it was -- it was before -- maybe the
17 12th.

18 Q. Okay. Was Mr. Andreu at the Tour de France,
19 anyway?

20 A. Yes, he was broadcasting for Outdoor Life
21 Network.

22 Q. So you became aware of this allegation in
23 mid-June. You became aware of Walsh's interview
24 July 4th, and as of July 12th, including Frankie
25 Andreu, you had talked to three people?

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1 A. Uh-huh.
 2 MR. HERMAN: Now, if you would pull up
 3 Respondents' Exhibit 24, please. Go to the last
 4 page, please, Lynn. Down a little bit further. There
 5 you go.
 6 No, go down about five more lines,
 7 please.
 8 Q. (BY MR. HERMAN) Now, did you know -- did you
 9 know that Mr. Armstrong was going to let Mr. Andreu
 10 know that you were going to talk to him?
 11 A. Yes.
 12 Q. Now, Mr. Tillotson has implied that -- that
 13 Mr. Armstrong was -- gave him a warning or that you
 14 guys were going to give him a warning. What does that
 15 language mean there that after -- Frankie says, no, he
 16 was super nice, you know. He was fine. He was
 17 perfect. He was like normal Lance. And I -- I
 18 appreciate you calling me up to say that you guys were
 19 going to come by and talk to me, giving me a warning.
 20 Was that referencing that you were going
 21 to threaten him in some way?
 22 A. No. I think Lance called him and said I
 23 wanted to talk to him.
 24 Q. He's referring to a conversation he had with
 25 Lance about giving him a heads up or a warning that

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1 you guys were going to call him, right?
 2 A. That's right.
 3 Q. Now, what was your objective in talking to
 4 Frankie Andreu on -- if it was July 12th or
 5 thereabouts?
 6 A. I wanted to -- I wanted to address the
 7 conversation -- the interview that Walsh had had on
 8 the radio and talk to him about whether or not his
 9 wife was one of Walsh's sources or star witness, I
 10 think, as he says it.
 11 Q. And were you interested in whether Walsh was
 12 telling the truth or telling a lie?
 13 A. Well, of course, I was interested in whether
 14 Walsh was telling the truth or telling a lie. I know
 15 that he was telling a lie, but this conversation
 16 wasn't about that. I wasn't there to take Frankie on
 17 or ask him any details about that. I wanted to get to
 18 the bottom of who Walsh's sources were and if his wife
 19 was one of them.
 20 Q. Well, if you look at page 1 there, about five
 21 lines from the bottom, Frankie Andreu says that David
 22 Walsh is lying. Do you see that?
 23 A. Yes.
 24 Q. Okay. And then if you go to page 3, about
 25 six lines down, he essentially says Walsh is lying

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1 again. Walsh said that Betsy talked to him and that
 2 Frankie says she did not tell David Walsh about the
 3 hospital room. I know that for sure. Do you see
 4 that?
 5 A. Yes.
 6 Q. And then down at the bottom of that page
 7 Frankie says he's claiming that he has a tape thing
 8 with Betsy saying that; he lied.
 9 Did Mr. Andreu ever change his view that
 10 David Walsh was lying when he was on the radio?
 11 A. No.
 12 Q. Did -- apparently at least from this
 13 transcript that's on -- that's reflected on
 14 Respondents' 24, Mr. Armstrong never asked Mr. Andreu
 15 not to speak with Walsh or threatened him in any way,
 16 did he?
 17 A. No.
 18 Q. In fact, on page 1 it says, Lance told me to
 19 talk to Walsh, and then I think over on page -- on
 20 page 4 at the bottom, it's clear that Lance has
 21 encouraged Frankie to talk and share whatever he
 22 wanted to with Walsh; is that right?
 23 A. That's correct.
 24 Q. Now, did you -- did you describe to
 25 Mr. Andreu what -- what Mr. Walsh had said in the

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1 interview?
 2 A. Yes.
 3 MR. HERMAN: Turn to page 3, please,
 4 Lynn, about seven or eight lines from the bottom.
 5 Q. (BY MR. HERMAN) B, would that refer to
 6 either you or Bart Knaggs?
 7 A. I think so, yes.
 8 Q. There's a statement: All right, well then
 9 let's do this, let me forward you this, this radio
 10 interview. Have you got e-mail here?
 11 Yeah.
 12 Let me forward you that interview, then,
 13 so you can see what he's claiming.
 14 And so did you offer to let -- to let
 15 Mr. Andreu see exactly what it was that Mr. Walsh had
 16 said in the interview?
 17 A. Yes.
 18 Q. Did you ever ask or suggest to Mr. Walsh that
 19 Ms. Andreu ought to take any position inconsistent
 20 with the position that she had already taken?
 21 A. No, I didn't.
 22 MR. BREEN: You said Walsh.
 23 Q. (BY MR. HERMAN) I'm sorry, did you ask
 24 Mr. Andreu or -- that -- for his wife to take an
 25 inconsistent position?

1 A. No.
 2 MR. HERMAN: So if you would go over to
 3 page 6, please, Lynn, about eight or ten lines down.
 4 Q. (BY MR. HERMAN) When you say, so you know,
 5 I'd appreciate it if she would really think about
 6 taking the position it sounds like she's in right now,
 7 which is I didn't say that to him, so we could -- we
 8 need the best result for all of us. What were you --
 9 what does that mean?
 10 A. It means that I felt like I had learned from
 11 Frankie that her position was that she wasn't a source
 12 for Walsh and she wasn't going to testify against
 13 Lance, and if that's where she was, then a statement
 14 to that effect would be helpful.
 15 Q. Okay. And did you -- did you offer to help
 16 draw something up that was consistent with the
 17 position that Ms. Andreu had already taken?
 18 A. Yes.
 19 MR. HERMAN: If you look at the bottom of
 20 page 2, please, Lynn.
 21 Q. (BY MR. HERMAN) You say, we could draw up
 22 something for you to look at. She could help. What
 23 did you have in mind?
 24 A. That we could draw something up that she
 25 could consider that was consistent with what her

1 position was, that would be helpful, if she would sign
 2 it.
 3 Q. And then over on page 6, about the middle of
 4 the page, you say, maybe we can craft something that
 5 she's comfortable with. Did you ever have any
 6 intention of drafting anything that Ms. Andreu would
 7 either be uncomfortable with or be inconsistent with
 8 what she had told Mr. Walsh?
 9 A. No. And what is -- you know, I'd like to say
 10 to the panel this is a conversation that in my
 11 deposition I didn't remember. I have a number of --
 12 thousands of conversations at the tour. I was asked
 13 if I said anything more than a hello to Frankie at the
 14 Tour by Jeff. I said I didn't think so. This was
 15 produced, and then it was characterized in their brief
 16 as my desperate attempt to find people to dispute what
 17 David Walsh had written, and it was characterized in
 18 many ways as I was browbeating, threatening, and I'm
 19 comfortable with what this says, and it's very
 20 consistent with what I was doing, which was we had
 21 just signed a new contract with the Discovery Channel.
 22 I told you the story about how they had
 23 just hopped on in June of that year. This story comes
 24 out. I believe and I still believe and know that
 25 there are a number of lies in David Walsh's book, and

1 I was attempting to find people that were either in
 2 the book or sources for the book that would dispute
 3 what he said they had said, and it was particularly
 4 discouraging to know that Frankie's wife, who Lance
 5 rode with for a number of years, who Lance had been
 6 friends with, was said to have been a source, a
 7 primary source for the book and someone that David
 8 Walsh said was going to come testify against him. So
 9 I went and had a conversation with Frankie about it.
 10 ARBITRATOR LYON: May I ask you right
 11 here, is this just a conversation that he -- or is
 12 this a telephone conversation?
 13 THE WITNESS: No, he had a wire on.
 14 ARBITRATOR LYON: He had a wire on?
 15 THE WITNESS: Or somehow taped it. I
 16 didn't know it until this lawsuit, but I'm comfortable
 17 with what is in here. I don't -- I don't threaten to,
 18 you know, create a holy war if his wife doesn't do
 19 what I say, which is how they've characterized me. I
 20 went and had a conversation. I laid out what our
 21 position was, which was we were about to have a war
 22 with David Walsh that we are obviously still having,
 23 and it was concerning that his wife was -- was a
 24 source and said she was going to testify against him.
 25 And remember that this is also at a time

1 when his book is getting megapublicity because Lance
 2 is in the Tour de France and my counsel to Lance at
 3 the time was don't talk about the book. Every time
 4 you talk about the book he gets more publicity. And
 5 also at a time when David Walsh was enjoying interview
 6 after interview after interview about his book and
 7 wasn't telling the world that he paid at least one of
 8 the witnesses or the sources money to say what she
 9 said. So, yeah, I was fighting. I was fighting for
 10 Lance, I was fighting for the reputation of the team,
 11 but this and other things that I've said -- I didn't
 12 threaten people. I didn't tell them there would be a
 13 holy war if they didn't do what I said or what Lance
 14 said, but I was definitely attempting to understand
 15 what her position was, and if there was a way -- if
 16 her position was consistent with something that would
 17 be helpful to the team or to Lance or to all of us, I
 18 wanted her to put it in writing, and that's what this
 19 was about.
 20 Q. (BY MR. HERMAN) Well, there's a key
 21 distinction here, let me ask you about this, were you
 22 attempting to contradict what was in the book or
 23 contradict what Mr. Walsh had said about the book --
 24 or his sources?
 25 A. Yes. I didn't ask Frankie in this

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1 conversation is it true, what happened in the -- is
 2 Betsy saying it's true. My only issue in this
 3 conversation was if she's willing right now to go on
 4 the record and say, David Walsh did an interview two
 5 nights ago on the radio and it's not true what he
 6 said, that would have been helpful to the sort of
 7 public relations battle we were in about the book.
 8 That's all. I wasn't there to question whether the
 9 story in Indiana University happened to not, and they
 10 characterized my -- when he says something about the
 11 hospital and I say, right -- as if I've assented to
 12 that it happened or that I know that it happened and
 13 I'm agreeing with them. I just said right. Got it.
 14 Let's move on to what I'm here for, which is to talk
 15 about whether she's a source and said she's going to
 16 testify.
 17 Q. Now, SCA has told the panel that they would
 18 hear explosive testimony about how Mr. Stapleton
 19 sought to pressure Frankie Andreu. Did you seek to
 20 pressure Frankie Andreu to do anything?
 21 A. No, and I would ask the panel to read this
 22 from start to finish and make your own determination
 23 about whether I'm pressuring Frankie here.
 24 Q. Did you ever pressure Frankie into obtaining
 25 a statement from his wife, Betsy?

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1 A. To the extent that that's pressuring, yes.
 2 But, no, I didn't. That's not pressuring someone to
 3 do something when I say maybe we can craft something
 4 that she would be comfortable with.
 5 Q. Now, you have also -- SCA has also said that
 6 at the time of the publication of LA Confidential
 7 Mr. Stapleton desperately sought out witnesses to the
 8 incident and asked them for statements denying what
 9 was reported.
 10 Well, now, the book had been out for
 11 almost a month as of the same you had -- you had had
 12 your conversations with Frankie. Had you talked to
 13 anybody except Chris Carmichael and Lance Armstrong?
 14 A. I don't think so.
 15 Q. Had you attempted even to contact Lisa Shiels
 16 or Stephanie McIlvain?
 17 A. No.
 18 Q. Or Page Carmichael?
 19 A. No.
 20 Q. Now, SCA has also alleged that there were no
 21 takers and Mr. Stapleton was repeatedly told that he
 22 would not like what he would hear. Did anybody tell
 23 you that?
 24 A. No.
 25 Q. Now, SCA has also said in this prehearing

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1 submission that the fact that there were no takers and
 2 that you were repeatedly told that you would not like
 3 what you would hear about the hospital room would be
 4 proven by e-mails to and from Mr. Stapleton. Do you
 5 recall that?
 6 A. I remember reading that, yes.
 7 MR. HERMAN: I'm sorry, I didn't write
 8 the exhibit number down here. 110. Would you put up
 9 Claimant's 110?
 10 Q. (BY MR. HERMAN) Can you identify what
 11 Claimant's Exhibit 110 is?
 12 A. That's an e-mail from Lisa Shiels Bella who
 13 was Lisa Shiels back in 1996 and who's now Lisa Shiels
 14 Bella.
 15 MR. TILLOTSON: I will object to this
 16 e-mail on two grounds, one is it again contains
 17 hearsay statements from one of the participants in an
 18 effort to disprove the truth of the matter asserted.
 19 Second of all, we weren't provided with this e-mail
 20 until the Saturday before the arbitration. I know
 21 there's other e-mails out there that exist between
 22 this witness and other people to that conversation or
 23 that incident, because we have been able to locate one
 24 that we did make an exhibit, but I do not believe that
 25 all the e-mails related to this matter have been

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1 produced and we have no assurances they have been
 2 produced, so I would object to this particular
 3 document on that basis.
 4 MR. HERMAN: Your Honor, if we are into
 5 things not being admissible because all the e-mails
 6 haven't been produced, we have testimony from
 7 Mr. Compton that eight to ten boxes of e-mails were
 8 printed and we didn't get a single one. But, Your
 9 Honor, this is directed at the allegation
 10 Mr. Stapleton was desperately seeking people out being
 11 told that -- and it refers specifically to the
 12 allegations contained in the -- in SCA's brief that --
 13 but he can prove it up, because it's his e-mail, it
 14 came off of his computer and I'm happy to go through
 15 that drill, but given the sort of -- the wide range of
 16 e-mails that are already in the record I didn't expect
 17 to be running into this kind of, you know,
 18 authentication issue.
 19 MR. TILLOTSON: I'm objecting on
 20 authentication. I'm objecting on hearsay, and I'm
 21 also objecting regarding the way in which this
 22 document was produced. We did ask for e-mails related
 23 to his or any draft statements or communications he
 24 had with people related to this incident. We got
 25 none. I followed that up with a letter request to

1 them a month or so before that hearing saying, we want
 2 all these things. Nothing is produced. The Saturday
 3 before the proceeding, this e-mail shows up from
 4 someone that -- in an effort to disprove that
 5 particular event.
 6 MR. BREEN: First --
 7 MR. TILLOTSON: So we object to that.
 8 ARBITRATOR FAULKNER: Okay.
 9 MR. BREEN: My response to that would be
 10 I don't believe it was the Saturday before, number
 11 one. Number two, I think Mr. Stapleton can explain
 12 why after Mr. Armstrong's deposition, and the panel
 13 will remember the intense flurry of discovery that
 14 went on up until the day before we started this, all
 15 the way up to the day before. So if we went through
 16 on a roster of what was produced when, including, for
 17 instance, the l'Equipe test results that were produced
 18 only an hour before or so Dr. Ashenden's deposition,
 19 et cetera, we would be here until next week talking
 20 about who did what when.
 21 ARBITRATOR FAULKNER: Believe me, the
 22 panel is well aware of the volume of e-mails. My last
 23 count was it's approaching 400 just to me.
 24 MR. TILLOTSON: Mr. Chairman, all I want
 25 really is an assurance that the witness has searched

1 this real quick, gentlemen, and then we will deal with
 2 the next issue.
 3 (Discussion held among the panel
 4 members.)
 5 ARBITRATOR FAULKNER: What we are going
 6 to do is the following: We are going to permit you to
 7 voir dire -- conduct a voir dire about the
 8 completeness of any productions from this witness so
 9 that you can verify your -- you know, at least satisfy
 10 yourself that you do have whatever, if any, e-mail
 11 communications, et cetera, you may have asked for
 12 regarding this witness. We are going to allow the
 13 testimony and, gentlemen, just as a way of reminding
 14 y'all, we know what weight to give hearsay. As
 15 somebody already observed, we are probably in excess
 16 of 75 years of legal experience on the tribunal.
 17 That's a diplomatic way of saying it. It might be a
 18 little bit more than 75 years, so please put in
 19 evidence that we will really find useful. Go ahead
 20 and proceed and you can do your voir dire when he's
 21 finished with the witness.
 22 MR. TILLOTSON: Okay, thank you.
 23 ARBITRATOR FAULKNER: Proceed, please.
 24 Q. (BY MR. HERMAN) Mr. Stapleton, what is the
 25 source of Claimant's Exhibit 110? Where did you get

1 and produced every e-mail related to this particular
 2 matter and has not just selected certain ones in
 3 response to whatever allegation --
 4 ARBITRATOR FAULKNER: Let's inquire about
 5 that. First of all, have you all gone through or had
 6 your witnesses go through, find and produce whatever
 7 e-mails may be -- relate to the testimony of these
 8 witnesses and --
 9 MR. HERMAN: Absolutely.
 10 MR. BREEN: We have.
 11 ARBITRATOR FAULKNER: Have they been
 12 furnished to opposing counsel?
 13 MR. BREEN: Yes, Your Honor, subject to
 14 some objections to relevance on other different areas.
 15 You'll remember there have been a wide variety of
 16 e-mails requested, et cetera. But, yes, in terms of
 17 the hospital room, you bet.
 18 And I would just point out, if the panel
 19 would like to know, that in Mr. Stapleton's deposition
 20 I specifically asked if statements of Mr. Stapleton
 21 had been produced, and we were assured they were, and
 22 then lo and behold it turns out that they had this
 23 statement of Mr. Stapleton at the time.
 24 MR. TILLOTSON: No, we didn't.
 25 ARBITRATOR FAULKNER: Let's deal with

1 it?
 2 A. It's -- where did I get it? Where did I find
 3 it?
 4 Q. Yes.
 5 A. It was -- the server for our e-mail for the
 6 company was replaced in January of '05, so I don't
 7 have any e-mails before then. There are two e-mails
 8 that have been produced here prior to that, both of
 9 which I would have been happy to produce, but this one
 10 and an e-mail to Stephanie McIlvain that I'm sure we
 11 will see later -- this one was printed and put in an
 12 ESPN media file because she e-mailed about an ESPN
 13 reporter that was trying to contact her. So I printed
 14 it and put it in that file, didn't realize it was in
 15 the file until after Lance's deposition we did another
 16 search. I hadn't thought about searching media files
 17 for e-mails that would relate to this case in terms of
 18 any story contained in David's book and that's where
 19 it came from.
 20 Q. And based upon the -- based upon the
 21 production in the British case, you're aware there are
 22 numerous e-mails back and forth between you and
 23 Mr. Walsh that corroborate your description of him
 24 waiting a year and a half to even contact you all,
 25 correct?

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1 A. Yes.
 2 Q. But you were unable to the recover those?
 3 A. That's right.
 4 Q. Because they were in 2004 as well?
 5 A. Right. Although those -- I want to be clear.
 6 Those may have been printed. I don't know how those
 7 got preserved. I may have printed those because they
 8 would have been media related as well.
 9 ARBITRATOR FAULKNER: Mr. Herman, I'm
 10 noting that it's about five minute of 3:00, and we
 11 know that one of the panel members needs to leave
 12 about 3:00. If you'll just let us know where you have
 13 a good point to break, then we will go ahead and break
 14 for the day at that point.
 15 MR. HERMAN: All right. Let me just --
 16 let me go through this e-mail.
 17 Q. (BY MR. HERMAN) Did you even contact Lisa
 18 Shiels at all prior to July 21st of 2004?
 19 A. No.
 20 Q. Well, you knew that she was one of the people
 21 that was supposed to be in this room?
 22 A. Yes.
 23 Q. Why -- if you were so desperate to find out
 24 and to convince people to deny that it happened, why
 25 hadn't you contacted her?

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1 A. I wasn't desperate.
 2 Q. Had you contacted Stephanie McIlvain?
 3 A. No. I did contact her later in the year.
 4 Q. Right, but as of the end of the Tour de
 5 France you had not contacted her, correct?
 6 A. No.
 7 Q. Now, without going through all of this --
 8 MR. HERMAN: If you go to the last page,
 9 Lynn.
 10 Q. (BY MR. HERMAN) This is -- this e-mail was
 11 directed to Lisa Shiels by Justine Gubar. Did you
 12 review the memorandum prepared by John Bandy where she
 13 refers to our friend, Justine Gubar, at ESPN?
 14 A. Yes.
 15 Q. Have you seen that?
 16 A. Yes.
 17 Q. That's the same Justine Gubar who produced a
 18 program Outside the Lines or something?
 19 A. Yes.
 20 Q. Without going through this change in detail,
 21 Ms. Gubar is contacting Ms. Shiels, asking her to
 22 state that this alleged incident occurred, correct?
 23 A. Uh-huh.
 24 MR. HERMAN: Let's see. Look as the
 25 third page, please, Lynn. Go on up there, Lynn. It

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1 says, I'm sorry, Justine...
 2 Q. (BY MR. HERMAN) Ms. Shiels replies on
 3 July 20th, I'm sorry, Justine, but I don't remember
 4 that particular conversation.
 5 Had you spoken to Ms. Shiels?
 6 A. No.
 7 Q. Had -- Mr. Armstrong is at the Tour de
 8 France; obviously he hadn't. Anyone else that you
 9 know of, at least, that had spoken to her at that
 10 time?
 11 A. No.
 12 MR. HERMAN: Then if you go to the top
 13 of page 2, please, Lynn.
 14 Q. (BY MR. HERMAN) Did you suggest or request
 15 that Ms. Shiels reply to Ms. Gubar that she didn't
 16 think there was a conversation as has been alleged
 17 here and then says, do you really think the doctors
 18 would ask that type of question in front of all those
 19 people, et cetera, et cetera? In summary, did you do
 20 anything to solicit this e-mail from Ms. Shiels?
 21 A. No. You'll --
 22 Q. Did you do anything to elicit her
 23 recollections as reflected in the e-mail?
 24 A. No.
 25 Q. Now, just before we break here, tell us if

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1 you recreated the events in the Indiana Hospital and
 2 what happened. Just tell the panel that real quick.
 3 A. Well, after -- after Lance's deposition and
 4 Betsy's deposition and Stephanie McIlvain's
 5 deposition, the pieces fit together. Lance had brain
 6 surgery on Thursday. Saturday night myself, Jim
 7 Ochowicz and Lance were going to go to an Indiana
 8 Pacer's game that I arranged for Lance to get out. We
 9 went to dinner, and he couldn't -- he couldn't go to
 10 the game. He was too worn out.
 11 And the next day was Sunday and they
 12 both -- a few people have referenced a Cowboy's game,
 13 and I arranged through the head of the Indiana
 14 University Medical Center to get the VIP suite that
 15 they have in a hospital for -- I guess for VIPs, which
 16 Lance wasn't at the time. And we went up there on
 17 Sunday afternoon and we watched the football game and
 18 that is the room -- it finally became clear to me that
 19 that's the room in which this conversation allegedly
 20 took place.
 21 And I was there that afternoon through
 22 the whole football game; Jim Ochowicz was there; his
 23 mother was there.
 24 Q. Lance Armstrong's mother was there?
 25 A. Lance Armstrong's mother was there. So it

1 becomes clear to me what day and time and place that
 2 Betsy is referring to, and I was there.
 3 Q. So instead of six people being there, there
 4 were nine people there?
 5 A. At least nine, yes.
 6 Q. Okay. And did the conversation that has been
 7 alleged by SCA, did that occur?
 8 A. No. And it just defies logic that it
 9 would -- three days after brain surgery, that his
 10 medical history wouldn't have already been taken.
 11 But, no, it didn't happen.
 12 Q. Did anyone that you contacted -- did you give
 13 them a story with which they disagreed?
 14 A. No.
 15 Q. And did you engage in any stunning or
 16 explosive or dark or alarming conduct in -- in
 17 contacting anyone who was allegedly there?
 18 A. No.
 19 MR. HERMAN: I'm at a stopping point, and
 20 I've probably got, you know, a little while left but
 21 not much.
 22 ARBITRATOR FAULKNER: Anything else we
 23 need to deal with?
 24 MR. TILLOTSON: Just for purposes of
 25 planning I don't need to voir dire this witness

(Proceedings adjourned at 3:02 p.m.)

1 regarding the e-mails. I accept his representation
 2 regarding the server, so I withdraw my objection on
 3 that basis.
 4 ARBITRATOR FAULKNER: Anything else we
 5 need to deal with?
 6 ARBITRATOR LYON: Is this your last
 7 witness?
 8 MR. HERMAN: Yes.
 9 ARBITRATOR FAULKNER: Okay.
 10 MR. HERMAN: Let me qualify that. I
 11 don't know -- I've designated some depo excerpts, but
 12 I don't think that, you know, we need to play them. I
 13 mean, I'll submit them to panel. I don't really know
 14 if -- I probably designated more than I would have,
 15 because I don't know what he's going to do with the
 16 depositions. I haven't gotten his page and line
 17 designations.
 18 ARBITRATOR CHERNICK: We prefer to read
 19 rather than look, unless there's something visual that
 20 needs to be seen.
 21 MR. HERMAN: Okay.
 22 ARBITRATOR FAULKNER: Reading is
 23 infinitely easier.
 24 Anything else, guys, before Mr. Chernick
 25 leaves? If not, 9:00 a.m. Monday morning.

1 STATE OF TEXAS)
 2 COUNTY OF DALLAS)
 3
 4 I, Nancy P. Blankenship, Certified Shorthand
 5 Reporter, in and for the State of Texas, certify that
 6 the foregoing proceedings were reported
 7 stenographically by me at the time and place
 8 indicated.
 9 Given under my hand on this the 31st day of
 10 January, 2006.
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