



Tribunal Arbitral du Sport  
Court of Arbitration for Sport

WB

Le Secrétaire général  
The Secretary General

By fax

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Mr Lamont Jones  
USA Track and Field  
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Indianapolis, IN 46225, USA  
Fax: (1 317) 261 0481

Lausanne, 20 May 2008/MR/kh

Re: CAS 2008/A/1461 Gatlin v/USADA  
CAS 2008/A/1462 IAAF v/USATF & Gatlin

Dear Sirs,

Correspondence

This is to acknowledge receipt of:

- i.) the Order of Procedure signed on behalf of Mr Gatlin;
- ii.) the Order of Procedure signed on behalf of USADA;
- iii.) a letter sent on behalf of the IAAF dated 19 May 2008;
- iv.) a letter sent on behalf of Mr Gatlin dated 19 May 2008;
- v.) a letter from USADA dated 19 May 2008;

Copies of the above-listed documents are enclosed for the attention of the relevant parties.

Hearing arrangements

I have noted counsel for Mr Gatlin's request for an ELMO-type projector, a laptop projector and a conference telephone to be available in the hearing room. If the parties require any other equipment

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during the hearing, they should inform the CAS Court Office on or before 23 May 2008, so that the appropriate arrangements can be put in place.

Furthermore, I note that Mr Gatlin and USADA have provided the CAS with a list of all persons who will be attending the hearing on their behalf. I kindly invite the IAAF and USATF to do the same, on or before 23 May 2008.

I note that a court reporter will attend the hearing. I would be grateful if counsel for Mr Gatlin could also confirm the name of the court reporter.

Finally, I inform the parties that should they wish to send any documents to the NYC Seminar and Conference Center in advance of the hearing, they should follow the attached instructions. The hearing will take place in Lower Level Rooms 1-3. In addition, there are the following breakout rooms:

- Level 5 Conference Room 1 - Mr Gatlin
- Level 5 Conference Room 2 - IAAF
- Level 5 Meeting Room 1 - USADA & USATF

I remain at your disposal for any further information.

Yours sincerely,

  
Mathieu REEB

Enc.  
Cc: Panel



Tribunal Arbitral du Sport  
Court of Arbitration for Sport

CAS 2008/A/1461 Gatlin v/USADA  
CAS 2008/A/1462 IAAF v/USATF & Gatlin

ORDER OF PROCEDURE

Introduction

The present dispute which has arisen between the parties shall be decided by arbitration before the Court of Arbitration for Sport (the "CAS") in accordance with the Code of Sports-related Arbitration (the "Code"). Following the agreement of the parties, the cases CAS 2008/A/1461 Gatlin v/USADA and CAS 2008/A/1462 IAAF v/USATF & Gatlin have been consolidated. As a consequence, the same Panel has been appointed in the two procedures, a single hearing will be held and one arbitral award will be issued.

1. Jurisdiction

The jurisdiction of the CAS in the present case is based on Rule 60 of the IAAF Statutes and is confirmed by the signature of the present Order by the parties.

2. Mission

On 21 January 2008, Mr Justin Gatlin filed an appeal with the Court of Arbitration for Sport against the United States Anti-Doping Agency (USADA). On 23 January 2008 the International Association of Athletics Federation (IAAF) filed an appeal with the Court of Arbitration for Sport against United States Track and Field (USATF) and Mr Justin Gatlin. Both appeals related to an un-dated decision rendered by the American Arbitration Association North American Court of Arbitration for Sport Panel containing the case reference AAA No. 30 190 00170 07. An arbitration panel has been appointed to decide this matter in its capacity as an Arbitral Tribunal and to render an award in compliance with the Code and with the terms and conditions set out in this document.

3. Arbitration Panel

The Arbitration Panel will sit in the following composition:

- President: Mr Kaj Hober, Attorney-at-Law in Stockholm, Sweden
- Arbitrators: Professor Richard H. McLaren, Barrister in London, Canada  
Mr Michele Bernasconi, Attorney-at-Law in Zurich, Switzerland

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Court of Arbitration for Sport

CAS 2008/A/1461 &amp; CAS 2008/A/1462 - Page 2

The secretarial duties of the Panel will be performed by the Secretary General of the CAS or by the member of the secretariat appointed in his place.

#### 4. Communications

For the purposes of this arbitration, any communication from the CAS will be sent to the following addresses:

For Mr Gatlin:

Mr Maurice M. Suh & Mr Daniel L. Weiss  
Gibson, Dunn & Crutcher LLP  
333 S. Grand Avenue, Suite 5115  
Los Angeles CA 90071-3197  
USA  
Tel: (1 213) 229 7000  
Fax: (1 213) 229 7520

For USADA:

Mr William Book, III  
United States Anti-Doping Agency  
1330 Quail Lake Loop, Suite 260  
Colorado Springs, CO 80906-4651  
USA  
Tel: (1 719) 785 2000  
Fax: (1 719) 785 2001

For the IAAF:

Mr Pierre Weiss  
International Association of Athletics Federations  
17, rue Princeasse Florestine  
BP 359  
MC 98007 Monaco  
Principality of Monaco  
Tel: (377) 93 10 88 88  
Fax: (377) 93 15 95 15

For USATE:

Mr Lancel Jones  
USA Track & Field  
One RCAS Dome, Suite 140  
Indianapolis, IN 46225  
USA  
Tel: (1 317) 261 0500  
Fax: (1 317) 261 0481

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Court of Arbitration for Sport

CAS 2008/A/1461 & CAS 2008/A/1462 - Page 3

5. Seat

In accordance with article R28 of the Code, the seat of the Panel is established at the CAS Court Office, Château de Bétusy, Avenue de Beaumont 2, 1012 Lausanne, Switzerland. All communications and documents shall be sent to this address.

6. Language

In accordance with article R29 of the Code, the official language of this arbitration is English. Documents submitted in any language other than English shall be accompanied by a translation. If such documents are not accompanied by an English translation, the Panel may decline to consider them.

7. Law applicable to the merits

In accordance with article R58 of the Code, the Panel shall decide the dispute according to the applicable regulations and the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.

8. Written proceedings

- 8.1 On 21 January 2008 Mr Gatlin filed his statement of appeal.
- 8.2 On 23 January 2008 the IAAF filed its statement of appeal.
- 8.3 On 25 February 2008 Mr Gatlin filed his appeal brief.
- 8.4 On 7 April 2008 Mr Gatlin filed his witness statements.
- 8.5 On 18 April 2008 the IAAF filed its answer with its witness statements.
- 8.6 On 6 May 2008 Mr Gatlin filed his reply brief.
- 8.7 A time limit of 10 days from receipt of the reply brief is fixed for the Respondents to file a second answer, if they so wish.

9. Oral presentation

The parties have been called to attend an oral hearing which will take place at

9.30am on 28 and 29 May 2008 at the NYC Seminar and Conference Center,  
71 West 23rd Street, New York, NY 10010.

The following witness statements and expert reports have been submitted by the parties:

Tribunal Arbitral du Sport  
Court of Arbitration for Sport

CAS 2003/A/1461 &amp; CAS 2008/A/1462 - Page 4

## Mr. Gatlin

- Witness statement of Mr. Justin Gatlin
- Witness statement of Dr. Robin E. Barnett
- Witness statement of Mr. Vince Anderson
- Witness statement of Ms. Kay Shanahan
- Witness statement of Dr. Lois Prislovsky
- Witness statement of Special Agent Jeff Novitzky
- Witness statement of Mr. Paul Scott

## IAAF

- Witness statement of Prof. Arne Ljungqvist
- Witness statement of Dr. Larry Bowers
- Witness statement of Mr. Eugene Gulland
- Witness statement of Ms. Michelle Collins
- Expert report of Dr. Olivier Rabin

According to Art. R44.2 of the Code of Sports-related Arbitration, the President of the Panel may exempt a witness from appearing at the hearing if the witness has filed a witness statement, and if the parties so agree. In the light of this, and for the purposes of planning the hearing, the parties are invited to inform the CAS of which witnesses they intend to examine and also the expected time required for the respective witness examination. Also, the parties are invited to inform the CAS of:

- which witnesses will be available at the hearing and which will be heard via tele- or video-conference;
- the list of all other participants in the hearing, including their function (party, counsel, witness...);
- any tentative time table for the hearing, in the event the parties wish to assist the Panel in this regard;
- any particular technical equipment needed at the hearing.

The parties are invited to submit the requested information on or before 19 May 2008.

Please note that the hearing will be recorded but that the CAS will not retain the services of a court reporter. If the parties wish to have one, they must make their own arrangements.

10. Deliberations and Award

The Arbitration Panel will render a written, reasoned award, which will be notified to the parties by the CAS Secretary General. The Panel may decide to issue the operative part of the award before the grounds.

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Court of Arbitration for Sport

CAS 2008/A/1461 & CAS 2008/A/1462 - Page 5

11. Costs

- 11.1 Article R65 of the Code shall apply to these proceedings.
- 11.2 The Court Office fee of CHF 500 was paid by Mr Gallin on 1 February 2008 and by the YAAF on 4 February 2008, in accordance with article R65.2 of the Code.

12. Publication

Pursuant to article R59 of the Code, the award, a summary and/or a press release setting forth the results of the proceedings shall be made public by the CAS, unless all parties agree that they should remain confidential.

Lausanne, 9 May 2008

On behalf of the President of the Panel

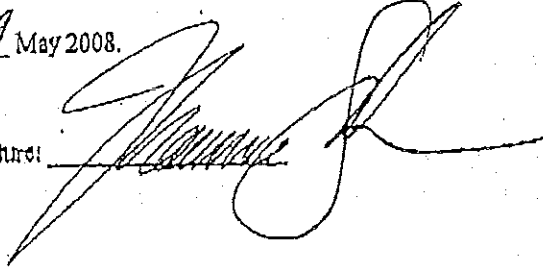


Matthieu REEB  
CAS Secretary General

Read and agreed upon by MAURICE, SUH

on behalf of Justin Gallin

on 19 May 2008.

Signature: 



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## FAX

To	Matthieu Reeb
Of	Court of Arbitration for Sport
Fax number	+41 216 13 5001
Subject	CAS 2008/A/1462
From	Mark Gay
Pages	2
Hard copy	No
Our reference	MG/SCB/85149/120032/19320558.1
Your reference	
Date	19 May 2008

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## Message

Dear Mr Reeb

CAS 2008/A/1641 Gatlin v/ USADA  
 CAS 2008/A/1462 IAAF v/USATF & Gatlin

I refer to your letter dated 9 May 2008 to Pierre Weiss, which attached a copy of the

20 MAY 2008	
DOSSIER	1461/1462
A TRAITER PAR	MR. KH
NOTE INFORMATION	parties + Panel
ECHÉANCIER	
	✓

Unfortunately, the IAAF is unable to sign the Order of Procedure as currently drafted. The IAAF is unable to accept section 7 of the Order of Procedure concerning the law applicable to the merits, as it does not correspond to IAAF Rules. IAAF Rules clearly state that, in all appeals before CAS involving the IAAF, CAS and the CAS Panel shall be bound by IAAF Rules and Regulations, and the governing law shall be Monegasque law. In particular, IAAF Rules 60.28 and 60.29 provide:

- "28. In all CAS appeals involving the IAAF, CAS and the CAS Panel shall be bound by the IAAF Constitution, Rules and Regulations (including the Procedural Guidelines). In the case of any conflict between the CAS rules currently in force and the IAAF Constitution, Rules and Regulations, the IAAF Constitution, Rules and Regulations shall take precedence.
29. In all CAS appeals involving the IAAF, the governing law shall be Monegasque law and the arbitrations shall be conducted in English unless the parties agree otherwise."

These Rules clearly state that in an appeal involving the IAAF, the CAS Panel shall be bound by IAAF Rules and Regulations. IAAF Rules make it clear that the governing law of the CAS appeal shall be Monegasque law. USATF and Mr Gatlin are therefore bound by these provisions.

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INVESTOR IN PEOPLE



In addition, CAS Rule 58 sets out the applicable law for appeal arbitrations. It provides:

*"The Panel shall decide the dispute according to the applicable regulations and the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision."*

The applicable regulations, i.e. IAAF Rules, provide that Monegasque law applies.

By virtue of USATF's membership of the IAAF, and in turn, Mr Gatlin's membership of USATF, the IAAF considers that a choice has been made by the parties as to the applicable regulations and rules of law, namely that set out in IAAF Rules 60.28 and 60.29.

The IAAF would therefore request that section 7 of the Order of Procedure be amended as follows:

*"The Panel shall decide the dispute according to the IAAF Rules and Regulations and Procedural Guidelines for Doping Control (as amended from time to time)."*

Thank you in advance for your cooperation.

Yours sincerely



MARK GAY  
Partner  
DLA PIPER UK LLP

mark.gay@dlapiper.com

GDC LA 7  
**GIBSON, DUNN & CRUTCHER LLP**

**LAWYERS**

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May 19, 2008

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**VIA FACSIMILE AND EMAIL**

Matthieu Reeb  
Secretary General  
Tribunal Arbitral du Sport  
Chateau de Bethusy  
Avenue de Beaumont  
CH-11012 Lausanne, Switzerland

SEARCHED	INDEXED
SERIALIZED	FILED
MAY 20 2008	
FBI - LOS ANGELES	

Client No.  
36015-00001

Re: *CAS 2008/A/1461 - Gatlin v. USADA*  
*CAS 2008/A/1462 - IAAF v. USATF and Gatlin*

Dear Mr. Reeb:

This is in response to your request to comment with respect to the witness issues referenced in paragraph 9 of your correspondence of May 9, 2008.

1. Mr. Gatlin and Mr. Scott will both be physically present at the hearing. Dr. Barnett and Mr. Anderson will be available by teleconference.
2. The persons who will be physically present at the hearing include:
  - Mr. Justin Gatlin (party)
  - Mrs. Jeanette Gatlin (party)
  - Mr. Willie F. Gatlin (party)
  - Mr. Maurice M. Suh (counsel)
  - Mr. Andrew Demko (counsel)
  - Mr. Shawn Rodriguez (law clerk)

LOS ANGELES NEW YORK WASHINGTON, D.C. SAN FRANCISCO PALO ALTO LONDON  
PARIS MUNICH BRUSSELS DUBAI ORANGE COUNTY CENTURY CITY DALLAS DENVER

Matthieu Reeb  
May 19, 2008  
Page 2

Ms. Anya Grossman (law clerk)

Mr. Paul Scott (witness)

3. We have reviewed the schedule proposed by IAAF, and generally find it to be acceptable with the following modifications:

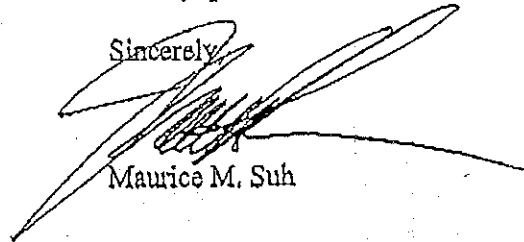
- a. Change Opening Submissions from 15 minutes to 30 minutes (both sides)
- b. Change Re-examination of Mr. Gatlin from 10 minutes to 20 minutes
- c. Change Re-examination of Mr. Anderson from 5 minutes to 15 minutes
- d. Change Examination in Chief of Mr. Scott from 5 minutes to 10 minutes
- e. Change Cross-examination of Dr. Bowers from 15 minutes to 45 minutes

4. We would like to have an ELMO or other similar overhead projection device, as well as a projector that can interface with a computer.

Lastly, we have arranged for a court reporter to be present at the hearing.

Please do not hesitate to contact me with any questions about the foregoing.

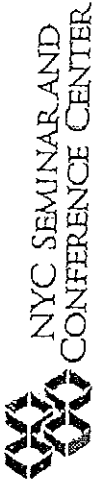
Sincerely,



Maurice M. Suh

MMS/td

cc: William Bock III  
Pierre Weiss  
USA Track and Field  
Justin Gatlin



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Name of Event \_\_\_\_\_

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## FAX

To	Matthieu Reeb
Of	Court of Arbitration for Sport
Fax number	+41 216 13 5001
Subject	CAS 2008/A/1462
From	Mark Gay
Pages	4
Our reference	MG/SCB/85149/120032/19327500.1
Date	20 May 2008

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### Message

Dear Mr Reeb

CAS 2008/A/1462 IAAF -v- USATF & Justin Gatlin  
CAS 2008/A/1461 Justin Gatlin -v- USADA

I write further to Mr Suh's letter dated 19 May 2008.

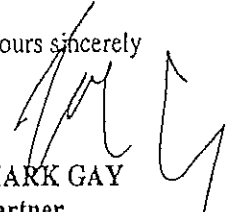
In his letter, Mr Suh proposes a number of changes to the timetable prepared by the IAAF. The IAAF is content to accept all the changes proposed by Mr Suh, save that the IAAF itself only requires 15 minutes for opening. I therefore attach a revised timetable which reflects these changes, and which also provides USADA with 10 minutes to make submissions on day 2, further to Mr Bock's letter dated 19 May 2008.

As you will see, we have changed the order of the final two witnesses on day 1, being Dr Bowers and Ms Collins. This is because Ms Collins has confirmed that she would be available to give evidence at around 5 pm New York time.

In addition, in relation to Ms Collins, please be advised that Ms Collins' requests that her lawyer, Michael Straubel, be allowed to listen in by telephone to Ms Collins' evidence.

If you have any queries, please do not hesitate to contact me.

Yours sincerely

  
MARK GAY  
Partner  
DLA PIPER UK LLP

mark.gay@dlapiper.com

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Cc Maurice Suh - +1 213 229 6260  
William Bock III - +1 719 785 2001  
Lamont Jones - +1 317 261 0481

CAS 2008/A/1461 JUSTIN GATLIN -v- USADA  
 CAS 2008/A/1462 IAAF -v- USATF & JUSTIN GATLIN

Hearing Timetable

HEARING TIMETABLE	
9.30 am	Chairman's Opening and Procedural Matters
9.45 am	Mr Gatlin's Opening Submissions (limited to 30 minutes)
10.15 am	IAAF's Opening Submissions (limited to 15 minutes)
10.30 am	Examination in Chief of Mr Gatlin (limited to 10 minutes)
10.40 am	Cross examination of Mr Gatlin (limited to 30 minutes)
11.10 am	Re-examination of Mr Gatlin (limited to 20 minutes)
11.30 am	BREAK
11.45 am	Examination in Chief of Dr Barnett - <i>by telephone</i> - (limited to 5 minutes)
11.50 am	Cross examination of Dr Barnett (limited to 15 minutes)
12.05 pm	Re-examination of Dr Barnett (limited to 5 minutes)
12.10 pm	Examination in Chief of Mr Anderson - <i>by telephone</i> - (limited to 5 minutes)
12.15 pm	Cross examination of Mr Anderson (limited to 15 minutes)
12.30 pm	Re-examination of Mr Anderson (limited to 15 minutes)
12.45 pm	Examination in Chief of Mr Scott (limited to 10 minutes)
12.55 pm	Cross examination of Mr Scott (limited to 15 minutes)
13.10 pm	Re-examination of Mr Scott (limited to 5 minutes)
13.15 pm	LUNCH
2.15 pm	Examination in Chief of Professor Ljungqvist (limited to 10 minutes)
2.25 pm	Cross examination of Professor Ljungqvist (limited to 1 hour)
3.25 pm	Re-examination of Professor Ljungqvist (limited to 10 minutes)

3.35 pm	Examination in Chief of Mr Gulland - (limited to 10 minutes)
3.45 pm	Cross examination of Mr Gulland (limited to 1 hour)
4.45 pm	Re-examination of Mr Gulland (limited to 10 minutes)
4.55 pm	BREAK
5.10 pm	Examination in Chief of Ms Collins - <i>by telephone</i> (limited to 5 minutes)
5.15 pm	Cross examination of Ms Collins (limited to 15 minutes)
5.30 pm	Re-examination of Ms Collins (limited to 5 minutes)
5.35 pm	Examination in Chief of Dr Bowers - <i>by telephone</i> (limited to 5 minutes)
5.40 pm	Cross examination of Dr Bowers (limited to 45 minutes)
6.25 pm	Re-examination of Dr Bowers (limited to 5 minutes)
6.30 pm	CLOSE DAY 1

Thursday 25 May 2008	
9:30 am	Examination in Chief of Dr Rabin - <i>by telephone</i> (limited to 5 minutes)
9:35 am	Cross-examination of Dr Rabin (limited to 15 minutes)
9:50 am	Re-examination of Dr Rabin (limited to 5 minutes)
9.55 am	Closing Submissions of the IAAF (limited to 1 ½ hours)
11.25 am	Closing Submissions of USADA (limited to 10 minutes)
11.35 am	Closing Submissions of Mr Gatlin (limited to 1 ½ hours)
13.05 pm	Personal Statement from Mr Gatlin
13.20 pm	CLOSE