

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MINNESOTA

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4 LeMOND CYCLING, INC.,

5 Plaintiff,

6 vs.

Case No. 08-1010

7 TREK BICYCLE CORPORATION,

8 Defendant/Third-Party
9 Plaintiff,

10 vs.

11 GREG LeMOND,

12 Third-Party Defendant.
13 -----

14
15 Video Deposition of JOHN BURKE

16 Tuesday, April 7, 2009

17 9:31 a.m.

18 at

19 GASS WEBER MULLINS, LLC
20 309 North Water Street, Suite 700
21 Milwaukee, Wisconsin 53202

22 Reported by Julie K. Lyle, RPR/RMR/CRR
23
24
25

1 A Yes.

2 Q And did -- and did you discuss how you intended
3 to publicly announce the termination of the
4 LeMond brand with counsel?

5 MR. WEBER: I instruct you not to
6 answer. The subject matter of discussions with
7 counsel is within the scope of the privilege.

8 MR. MADEL: Even though those
9 communications were specifically thought to be
10 made public?

11 MR. WEBER: My objection and
12 instruction stand.

13 MR. MADEL: Okay.

14 BY MR. MADEL:

15 Q Did you discuss your decision to have this
16 presentation with any executives at Trek?

17 A Yes.

18 Q Who?

19 A To my -- to the best of my knowledge, I can't
20 recall that. We did hire a public relations firm
21 and so that was, I'm sure, discussed in those
22 meetings.

23 Q What was the name of the public relations firm?

24 A Public Strategies.

25 Q Where are they located?

1 Q Dan Bartlett who was part of the communications
2 team for the George W. Bush White House?

3 A That's true.

4 Q The Public Strategies relationship was presumably
5 led by one person; is that right?

6 A No.

7 Q No. There wasn't one relationship manager or one
8 specific contact?

9 A Well, if there is, I think you would probably say
10 that it was Bill Colleti.

11 Q Was Mr. Colleti the person that you communicated
12 with the most?

13 A Yes.

14 Q What -- what did you ask the Public Strategies
15 team to do?

16 A I think what we asked the Public Strategies team
17 to do is here's the decision that has been made,
18 this is -- how should we best communicate it.
19 We're not communication professionals, and we
20 want to make sure that the story was properly
21 presented.

22 Q When you say "the story," do you mean Trek's side
23 of the story?

24 A I would call it the story.

25 Q Okay. So do you believe that in that

1 my journal that I reviewed yesterday, and in it
2 it says, quote -- it was a conversation between
3 Greg and I, and it says, "What you're telling me
4 is the same thing that Sid," his lawyer in New
5 York, "and my lawyer in Minnesota is telling me
6 to do."

7 And if you go back, time and time
8 again, everybody was telling Greg the same thing
9 and he would do something else. And I would
10 consider some of those episodes to be idiotic. I
11 do not consider Greg to be an idiot.

12 Q How many meetings did you have with Public
13 Strategies?

14 A I would guess -- I do not recollect the exact
15 amount. I would probably say four or five.

16 Q Were these in person?

17 A Yes.

18 Q Did they travel to Trek or did you travel to
19 Austin?

20 A They traveled to Trek.

21 Q And what was discussed at these meetings?

22 A Well, it was --

23 MR. WEBER: Just a second. Insofar as
24 the meetings included counsel, instruct you not
25 to answer as they're within the attorney-client

1 privilege. If you had meetings with Public
2 Strategies outside the presence of counsel, you
3 can answer.

4 BY MR. MADEL:

5 Q Well, let's -- let's break it up then.

6 A Okay. Okay.

7 Q Do you recall who was at meeting one?

8 A No.

9 Q Do you recall who was at meeting two?

10 A Well, can I ask you a question?

11 Q Sure.

12 A I can recall some of the people at the meeting.

13 Q Okay.

14 A And I would also say that I think counsel was at
15 every meeting.

16 Q Okay. Whose -- what counsel was at every
17 meeting?

18 A Bob Burns.

19 Q Was Mr. Burns providing you legal advice at each
20 one of these meetings?

21 A I would say yes.

22 Q And each one of these meetings, the purpose of
23 the meeting was devising the message that was
24 going to be delivered at the presentation?

25 A No. There were -- it was --

1 MR. WEBER: Hold on just a second.

2 Instruct you not to answer insofar
3 as, in so doing, he's going to be disclosing
4 attorney-client privileged information, including
5 discussions with counsel as to legal strategy.

6 So instruct you not to answer.

7 BY MR. MADEL:

8 Q Can you answer the question without revealing
9 attorney-client information?

10 A I don't think I can because Bob was at all the
11 meetings.

12 Q Well, I'm asking you what the purpose of the
13 meetings were.

14 A And the purpose of the meetings was to put
15 together what the message would be and how the
16 message would be delivered.

17 Q And the message was going to be delivered at that
18 April 8, 2008, presentation?

19 A It was delivered in a number of ways. That was
20 one of the ways.

21 Q What were the other ways?

22 A Letter to employees, letter to dealers, things
23 like that.

24 Q Press release?

25 A Sure.

1 Q Is the --

2 A You must -- you must -- it -- you must
3 understand, in the context, we were served with a
4 lawsuit ten days -- somewhere around ten days
5 after my father's death. All right? We were --
6 same type of lawsuit we were given in 2004. All
7 right?

8 It was a lawsuit that we found to
9 be threatening, and we wanted to make sure that
10 we were organized in how we put our message out.

11 Q What did Trek do to Mr. LeMond within seven days
12 of his mother's death?

13 A I don't know. I -- to be honest with you, I
14 didn't even know that his mother had died.

15 Q And did Mr. LeMond send you a note of condolence
16 after your father passed away?

17 A I believe that he did.

18 (Exhibit 135 was marked for
19 identification.)

20 BY MR. MADEL:

21 Q Exhibit 135 is a letter from Loren Brown, on
22 behalf of Trek, to Mr. LeMond dated August 10,
23 2004, right?

24 A It is.

25 Q And the first two paragraphs say, "My firm

1 Q So you don't know that for certain? What your
2 knowledge is regarding LeMond turning off his
3 website came from Mr. Burns?

4 A That's correct.

5 Q In addition to Trek employees and the media, was
6 anybody else invited to your April 8, 2008,
7 presentation?

8 A Not to my knowledge.

9 Q Were dealers invited?

10 A Not to my knowledge.

11 Q Did any dealers attend?

12 A Not to my knowledge. If there would have been a
13 dealer meeting there, perhaps some dealers might
14 have been in the audience, but I'm not aware that
15 there was. I'm sure we could get you that
16 information.

17 Q Does a video of your presentation still exist on
18 YouTube today?

19 A I do not know.

20 Q All right.

21 A I haven't checked.

22 Q Did you ever discuss the fact that your
23 presentation was going to be videotaped and
24 posted on YouTube?

25 A We did.

1 Q Okay. When was that discussed?

2 A Probably at one of the meetings.

3 Q With Public Strategies?

4 A Yes.

5 Q And you approved that decision?

6 A I did.

7 Q And does it surprise you to know that it's still
8 on there today?

9 A No. Things on YouTube, I think, stay -- I mean,
10 that's not something we control. They stay on
11 there for however long.

12 Q And you know that the Trek website links to
13 YouTube in order to show that presentation today?

14 A I'm not aware of that.

15 Q Is -- is that something that you approve of?

16 A I approve of the presentation, so yes. I'm
17 surprised that it's still on there. I don't
18 think it's a current topic.

19 Q And you know that the Trek -- Trek website links
20 to LeMond's complaint as well as Trek's complaint
21 in this lawsuit?

22 A Yes. I think -- I think one of the important
23 things is we kept, time and time again, trying to
24 solve this -- fix this relationship.

25 As I said before, I'm an

1 If there's a different point of
2 view that Greg has, that's Greg's responsibility
3 to get that message out. Greg talks to the press
4 quite often, and I'm not responsible for Greg
5 getting his message out.

6 Q Did you -- well, strike that.

7 Do you see any responsibility on
8 behalf of Trek today in order to tell the whole
9 story with respect to the LeMond relationship as
10 opposed to just your side of the story?

11 A No. It's -- it is our responsibility to tell the
12 story from our point of view. Do I stand behind
13 this story and the accuracy of this story?
14 Absolutely.

15 (Exhibit 138 was marked for
16 identification.)

17 BY MR. MADEL:

18 Q What is Exhibit 138?

19 A Exhibit 138 is a letter dated April 9th, 2008, to
20 me from Jeff Jones.

21 Q And in this letter, Mr. Jones says, "I have read
22 through your website, both Trek's complaint and
23 Mr. LeMond's complaint regarding your dispute.
24 As an avid cyclist and fan of cycling, I can't
25 disagree with your position more."

1 A This is an e-mail from Reid, and I cannot
2 pronounce his last name, N-E-U-R-E-I-T-E-R, dated
3 April 9th, 2008.

4 Q I'm going to go with Neureiter.

5 A Okay.

6 Q Mr. Neureiter wrote, "I'm extremely disappointed
7 at Trek's decision to terminate its relationship
8 with Greg LeMond. Mr. LeMond is a hero of mine
9 and many others."

10 And he then asks, in the
11 second-to-the-last -- or third-to-the-last
12 sentence here, "Why on earth would Trek continue
13 to support an athlete who, in his role of patron
14 of the tour, chased down and publicly punished
15 one of the few active cyclists to speak publicly
16 about Michele Ferrari and doping in sport?"

17 Do you see that?

18 A I do.

19 Q Do you know who Michele Ferrari is?

20 A Yes.

21 Q Who -- who's Michele Ferrari?

22 A Well, I don't think it's Michele. I think that's
23 the wrong pronunciation. I think it's a doctor,
24 sports medicine doctor in Italy.

25 Q And do you know if he was ever convicted by the