

Exhibit 7

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UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

LeMOND CYCLING, INC.,

Plaintiff,

vs.

Case No. 08-1010

TREK BICYCLE CORPORATION,

Defendant/Third-Party
Plaintiff,

vs.

GREG LeMOND,

Third-Party Defendant.

ORIGINAL

Video Deposition of JOHN BURKE

Tuesday, April 7, 2009

9:31 a.m.

at

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

Reported by Julie K. Lyle, RPR/RMR/CRR

1 fact, he was actually -- in certain cases, he was
2 competing with our dealers. There's an example
3 of a sale up in Minneapolis where Greg was
4 competing with our dealers.

5 Those are a couple of examples
6 where Greg has damaged Trek.

7 Q I -- I understand that those are a couple of
8 examples. I want you to give me the exhaustive
9 list. Tell me -- tell me how else Greg LeMond
10 has damaged Trek.

11 A Well, I just gave you a couple of the big ones
12 that -- I can be a little more specific and tell
13 you that in 2001, the LeMond business was about
14 15 or \$16 million. Everything up until that
15 point had been going pretty well.

16 All the sudden we get to 2001, and
17 Greg starts making disparaging comments about
18 other athletes.

19 We were in a perfect position at
20 that point in time. The sport of cycling was
21 growing significantly. LeMond was in a great
22 position as a brand. That business could have
23 grown to, in my estimation, at least \$30 million
24 over the next five years, and it stayed flat at
25 best.

1 There's an example.

2 Another example is what happened
3 in the PTI lawsuit. Back in the late 1990s, Trek
4 was not doing so well financially. We were
5 taking a look at making -- we were reviewing our
6 business to see where we could make some changes.
7 We took a look at the LeMond contract and we
8 said, you know what, we're not doing a good job
9 of selling LeMond accessories.

10 And we talked to -- I talked to
11 Greg and said, Greg, is there a way that we could
12 restructure this so that we're not going to sell
13 LeMond accessories and you can do it with another
14 company.

15 And we talked about that for a
16 while. And sure enough, we came to an agreement
17 where we gave Greg a couple extra things, large
18 things. We expanded the length of the contract,
19 we agreed to pay more royalties on international
20 sales, and we got out of the accessory contract.

21 I brought up to Greg at that
22 point, you know, Greg, we really don't want to
23 see LeMond accessories go to the mass merchant.
24 That's a big competitor for independent bicycle
25 retailers. Greg said that's not going to happen.

1 If anything takes place here, I'll let you know.

2 If you go back and you take a look
3 at it, unfortunately, once again, there had been
4 negotiations with PTI, there had been a letter of
5 intent signed even before he and I had that
6 conversation.

7 It's just time and time again Greg
8 would make commitments. He would say I'm going
9 to do one thing, and then he would do something
10 else.

11 You can go back in the history and
12 take a look, in 2001, in 2004, in 2006 when we --
13 when Greg would comment on specific athletes and
14 we'd get to the end of this and Greg would say,
15 you know what, I'm not going to do that anymore.
16 I'm done with that. I'm not going to do that.
17 I'm going to support Trek. I'm going to support
18 your retailers. That's the way it's going to be.

19 And we'd say, great, and we'd go
20 out there. And, as we always have done, you
21 know, we kept going on and on. Despite all the
22 problems, we kept moving on. And it was
23 disappointing.

24 But those are just more examples.

25 Q Do you have any other examples?

1 Ralph.

2 BY MR. MADEL:

3 Q How about this: Can you describe any step that
4 you've ever taken in your life to request that
5 Mr. LeMond enter into a contract with Trek that
6 would have prohibited Mr. LeMond or any of his
7 companies from providing bike accessories to the
8 mass market?

9 A No, I can't recall that.

10 Q Okay. The -- you've obviously e-mailed a number
11 of times with Mr. LeMond; is that right?

12 A A number of times, yes.

13 Q Have you -- have you always been truthful with
14 Mr. LeMond?

15 A Yes.

16 Q Okay. Have you always been truthful to Trek
17 employees?

18 A Yes.

19 Q And have you always been truthful in
20 communications that were going to be made on
21 behalf of Trek to the public?

22 A Yes.

23 Q When you say that you've been truthful with
24 Mr. LeMond, would that also include that you
25 haven't spoken any half-truths to him?

1 MR. WEBER: And if we take just a
2 second, I think we're at 130 or 131.

3 MS. RAHNE: Okay.

4 MR. WEBER: But I'll be right back and
5 we'll have the right number. Meanwhile, he can
6 take a look at the exhibit.

7 MR. MADEL: Let's take a break.

8 VIDEO TECHNICIAN: We're going off the
9 record at 9:53 a.m.

10 (A recess was taken.)

11 VIDEO TECHNICIAN: We are back on the
12 record at 9:55 a.m.

13 BY MR. MADEL:

14 Q Mr. Burke, I'm showing you Exhibit 134. Do you
15 recognize this?

16 A I do not.

17 Q Okay. Is the top half of the first page of
18 Exhibit 134 an e-mail from you to Mr. LeMond with
19 a copy to Dean Gore?

20 A Yes.

21 Q And the -- at the beginning on the bottom of the
22 first page to the fourth page is an e-mail from
23 Mr. LeMond to Mr. Gore with a copy to you; is
24 that right?

25 A Yes.

1 Q And the e-mail from Mr. LeMond was sent on
2 Sunday, February 25, 2007; is that correct?

3 A That is correct.

4 Q And if you'll look at the second page of
5 Exhibit 134, Mr. LeMond states, in the middle
6 there --

7 A Yeah.

8 Q -- "I believe that we have created one of the
9 best bikes on the market, and I have an ambitious
10 goal of having Trek live up to their contract to
11 use their 'best efforts' to promote my bike
12 worldwide. I think this is the year we need to
13 secure a team in order to do this. I don't mean
14 this letter to have any negative connotations. I
15 am extremely excited about what has been done for
16 the LeMond brand the last year and I want it to
17 continue. But I want the Trek Company to
18 understand that they have a contractual
19 obligation to do everything necessary to build a
20 brand, which means investing in building the
21 brand in Europe, which I believe could increase
22 sales of LeMond bikes dramatically. I really
23 want to get moving on this so that another year
24 does not go by without us being present in the
25 Pro Peleton. I also think that it is just

1 beginning building the sales in Europe. We need
2 to look at what can be done in terms of
3 distribution, etc."

4 Do you see that?

5 A Yes.

6 Q And you responded to this e-mail; is that right?

7 A I did.

8 Q And you responded to it ten days later?

9 A Okay.

10 Q Is that right?

11 A Yes.

12 Q And can you show me in this -- and your response
13 was March 7, 2007, right?

14 A Yes.

15 Q Can you show me where in this e-mail you told
16 Mr. LeMond that in 2001 he damaged the Trek
17 brand?

18 A I do not see that.

19 Q And can you show me where in this e-mail you
20 wrote to Mr. LeMond and said that he damaged the
21 Trek brand in 2004 regarding his comments
22 regarding Lance Armstrong?

23 A I don't see that.

24 Q And can you show me in this e-mail where you told
25 Mr. LeMond that he had damaged Trek through his

1 employee purchases of Trek bikes?

2 A Don't see that.

3 Q And can you show me in this e-mail where you told
4 Mr. LeMond that he was making disparaging
5 comments regarding other athletes and that had
6 hurt Trek?

7 A Don't see that.

8 Q Show me where in this e-mail you said anything
9 about the PTI lawsuit.

10 A Not in here.

11 Q But you did talk about how, in the fall of 2006,
12 Trek made competitive offers to sponsor several
13 top American teams that include European
14 campaigns and their schedules, right?

15 A I don't know -- if you take a look in here, it
16 refers to Toyota United, Slipstream, and Kelly
17 Benefits. I don't know if any of those are
18 European teams.

19 Q And you did write in this e-mail, "In general,
20 selling bikes in Europe has been a difficult nut
21 to crack, not just for LeMond," right?

22 A I did.

23 Q Was there a reason that you didn't take this
24 opportunity to tell Mr. LeMond -- well, strike
25 that.

1 2004, Trek had noticed a breach of
2 LeMond Cycling with the Trek contract, right?

3 A I would defer to the lawyers on that.

4 Q All right. It was sometime before 2007, though,
5 right?

6 A I'd defer to the lawyers on that.

7 Q On what? On the date?

8 A On the specifics of that. Yeah, I don't want to
9 make a mistake.

10 Q Well -- well -- and that's fine.

11 Did you ever consider LeMond
12 Cycling in breach of its contract with Trek prior
13 to 2007?

14 A I'd defer, once again, to the lawyers.

15 Q Okay. You -- you can't answer that as you sit
16 here today?

17 A I can't, from a -- I would say yes, based on
18 Section 13 of the agreement, that he was in
19 breach of the contract.

20 One of the things we always try
21 and do is we always try and work things out. One
22 of the things that our company is built upon is
23 relationships. And one of the things we always
24 tried to do with Greg, if you look at the history
25 of the relationship, is we always tried to work

1 Q How have LeMond bike sales done in Italy since
2 2001?

3 A I do not know specifically.

4 Q Do you know generally?

5 A I would guess that not very well.

6 Q Okay. Why would you guess that?

7 A Because I think it's followed a consistent
8 pattern of LeMond sales in Europe. We had high
9 hopes when we introduced LeMond in Europe, and we
10 had poor results.

11 We put our best efforts, as they
12 are defined in the contract, of 3 percent of
13 sales on marketing; we showed bikes at trade
14 shows; we had our salespeople out there; but in
15 the end, Europe proved to be a very difficult
16 market for a couple of reasons.

17 First of all, if you take a look
18 at the U.S. market where we were very successful
19 with LeMond, our overall company share, all the
20 brands that Trek owns, our overall share is
21 somewhere around 30 percent. If you take a
22 look -- and I mentioned it here on this note in
23 2007 -- our market share in Europe is somewhere
24 between 2 and 4 percent.

25 The reason that we really, in

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 represents Trek Bicycle Corporation. This is
2 formal notice that your recent actions are in
3 breach of LeMond Cycling, Inc.'s sublicensing
4 agreement with Trek Bicycle Corporation," right?

5 A It is.

6 Q And this letter came before Mr. LeMond ever
7 served any lawsuit on Trek; is that right?

8 A I would have to ask counsel that.

9 Q Did you see any need to tell your employees that
10 Trek was the first one to notice a breach with
11 Mr. LeMond in its relationship?

12 A No.

13 Q Why not?

14 A Because that's a decision I made.

15 Q With respect to Public Strategies meetings that
16 occurred here in Wisconsin -- well, strike that.

17 How much did you pay Public
18 Strategies for their work?

19 A I do not know.

20 Q Do you have any ballpark estimate of it?

21 A Oh.

22 MR. WEBER: Don't guess.

23 THE WITNESS: No.

24 BY MR. MADEL:

25 Q Who would know?

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 A We know Mr. LeMond.

2 Q Okay. Do you know Emma O'Reilly?

3 A I do not know Emma O'Reilly.

4 Q Have you ever read about her?

5 A I have not. I have a vague -- I think she -- was
6 she a swaniere [phonetic]?

7 Q I believe so.

8 A Okay.

9 Q Are you aware of her allegations regarding
10 Mr. Armstrong?

11 A I am not.

12 Q Have you ever investigated those allegations?

13 A I have not.

14 Q Are you aware of Frankie -- do you know who
15 Frankie Andreu is?

16 A I do.

17 Q Who's Frankie Andreu?

18 A He used to ride for the Postal team.

19 Q Are you aware of Frankie Andreu's allegations
20 regarding Mr. Armstrong?

21 A I am not. I'm not in the -- I'm not in the
22 doping business; I'm in the bike business.

23 Q Understood. But you did say during your
24 presentation that you wouldn't do business with
25 anybody that doped, right?

1 A That's true.

2 Q And you wouldn't ever turn a blind eye to that,
3 would you?

4 A No, I wouldn't.

5 Q I mean, if you had facts in front of you that
6 convinced you that this person was actually a
7 doper, you're going to drop them from the Trek
8 family, right?

9 A If somebody provided me with evidence -- in this
10 country, you're innocent until proven guilty,
11 right? So if somebody was convicted of doping,
12 then they would be dropped from the Trek family.

13 Q I've got a trial on May 5, and I hope that you're
14 on it. That was a joke. It's just a joke.

15 A It's like, I'm like where am I going to be on
16 May 5?

17 MR. WEBER: He's a criminal defense
18 lawyer.

19 THE WITNESS: Okay.

20 MR. MADEL: I couldn't -- I couldn't
21 agree with you more.

22 BY MR. MADEL:

23 Q With respect to the evidence against
24 Mr. Armstrong with respect to doping --

25 A Yep.

1 know of any cyclists that have participated in
2 the Tour de France that passed a doping test but
3 were later to have found to have
4 performance-enhancing drugs?

5 A I'm sure that just about anybody who has been
6 busted for doping would fit into that category.

7 Q I mean, just about anybody that's been busted for
8 doping at one time or another has been tested for
9 performance-enhancing drugs, right?

10 A I'm guessing at one time or another.

11 Q And you're aware that there's various masking
12 agents that athletes can take in order to conceal
13 performance-enhancing drugs?

14 A I am not. I'm not a doping expert.

15 Q Well, what have you done on behalf of Trek to
16 investigate any of the allegations of
17 Mr. Armstrong with respect to Mr. Armstrong
18 taking performance-enhancing drugs?

19 A Nothing. There's -- that's not our
20 responsibility. He is the most tested athlete in
21 the history of sports, and I'll leave it at that.

22 Q Well, do you think it's consistent with what you
23 said at the presentation that you won't do
24 business with people that cheat, that take
25 performance-enhancing drugs, and that you failed

1 to investigate when there are allegations of
2 somebody doing just that?

3 A We're not investigators. There's -- there's a
4 UCI. They have a -- I'm sure they have rules and
5 they have doping protocol. And it's obviously
6 worked. I mean, they've found -- as you
7 mentioned earlier, they found a number of people
8 here in the last few years.

9 Q Well, have there been tests where Lance Armstrong
10 proved positive for use -- taking EPO in 1999?

11 A I do not know.

12 Q Okay. The -- when you said that Trek won't do
13 business with somebody that dopes, at what point
14 do you believe it has been established that
15 somebody has doped?

16 A Well, I really don't -- I would say once the
17 governing body came to that conclusion.

18 Q All right. So if we take Mr. Landis, for
19 example, you would have done business with
20 Mr. Landis up to the time that the arbitration
21 panel came out and said he's -- he's guilty?

22 A Isn't that a --

23 MR. WEBER: Just let me object to the
24 form of the question as hypothetical.

25 THE WITNESS: Right, hypothetical.

1 that accessories through mass merchants damaged
2 the LeMond brand?

3 A As soon as I found out that he was going to sell
4 his accessory brand through the mass merchants, I
5 let him know that.

6 Q And that was an oral communication?

7 A I'm not sure whether that was oral or written.

8 Q Okay.

9 A I do not know.

10 Q Do you know of any writing, as you sit here
11 today, beyond what you've put in this lawsuit
12 where you informed LeMond or any of his
13 representatives that his launching an accessories
14 brand through mass merchants has damaged the
15 LeMond brand?

16 A I would have to ask legal counsel on that, but I
17 am very sure that we had quite a number of
18 communications regarding that topic.

19 Q What -- where are those communications?

20 A I do not know. I mean, those are phone calls.
21 There were probably -- and I guess those phone
22 calls don't exist.

23 Q The -- have you ever made any effort in order to
24 quantify the damage to the LeMond brand that you
25 contend that has occurred as a result of these

1 accessories branding through mass merchants?
2 A You know, we haven't. One of the things that is
3 really key in the bike business is what level of
4 support you get from retailers. Independent
5 bicycle dealers are the key.

6 My dad came from the appliance
7 business, and he understood that the retailer --
8 the recommendation of the retailer made a huge
9 difference of what goes out the door.

10 Now, you've got a lot of these
11 retailers who helped build up the LeMond brand.
12 They put a lot of time, effort, inventory
13 dollars. They -- they built that brand up
14 through 2000. And all the sudden there's a
15 Target across the street that's all the sudden
16 selling LeMond accessories. And those retailers
17 view that as a major problem to their business.

18 And whether that's reality or
19 perception, that's how they view it, and they act
20 accordingly.

21 Q I'm assuming, like my law firm, from -- Trek has
22 probably experienced this from time to time where
23 you've lost a major customer or major dealer from
24 time to time. Is that right?

25 A Very, very seldom.

1 Q Okay. When --

2 A Not one -- in the last ten years? Not one that I
3 can remember.

4 Q And I'm -- I'm just saying at any time. But have
5 you -- when something significant --
6 significantly negative has happened to Trek's
7 bottom line, have you asked your CFO or the CFO's
8 team to quantify it for you?

9 A You know, at times in the past we would do
10 something like that. On something like this that
11 is more of a gut-feel type of thing, no. It
12 just -- you know, you do it based on the feedback
13 you're getting from the marketplace.

14 Q So when you wrote here that "Despite Trek's
15 guidance not to do so, Greg launches an
16 accessories brand through mass merchants, damaged
17 LeMond brand," you can't point me to any specific
18 statistic as to how much it has damaged the
19 LeMond brand today?

20 A No, I can't. What I can recall from that
21 situation is that we got out of the accessories
22 contract and, in exchange, we gave Greg a
23 longer-term contract on bicycles. We also agreed
24 to increase the minimum royalty in Europe. And
25 Greg had, in reflection, a signed document with

1 A It is.

2 Q And he writes, "The complaint filed makes a lot
3 of sense. What is Trek's position regarding all
4 of your former riders who have tested positive,
5 including Armstrong?"

6 Do you see that?

7 A I do.

8 Q Did you answer Mr. Pugh's question?

9 A This was sent to the Trek consumer site. I'm
10 sure we got hundreds of e-mails a day and I did
11 not respond.

12 Q With respect to just so far with Exhibits 138,
13 139, and 140, do you have any objection to
14 Mr. LeMond posting these on the Internet as you
15 have done with respect to your presentation?

16 A I think it's a free country and Mr. LeMond can do
17 whatever he wishes.

18 Q Okay.

19 (Exhibit 141 was marked for
20 identification.)

21 BY MR. MADEL:

22 Q What is Exhibit 141?

23 A 141 is a note from Greg McQuaid. It is dated
24 April 9th, 2008.

25 Q And again, that's the day after your

1 presentation, right?

2 A It is.

3 Q And he writes, "Attention: John Burke - LeMond
4 action is a disgrace," right, at the top in bold?

5 A Yes.

6 Q And then he says, "Attention John Burke: How
7 petty and childish you are for discontinuing your
8 business relationship with Greg LeMond. Once
9 again, Lance Armstrong's lies have damaged the
10 reputation and livelihood of an honest cyclist
11 because they dared to speak the truth. Cheats
12 ride on all brands of bicycles, but Trek will
13 forever be associated with the greatest fraud of
14 all, and I for one would never dream of buying
15 one of your bikes. Greg McQuaid, San Francisco,
16 California."

17 Do you see that?

18 A I do.

19 Q Did you respond to Mr. McQuaid?

20 A I did not -- I believe I did not respond to
21 Mr. McQuaid. This came in through the consumer
22 line.

23 But, once again, we're putting
24 e-mails out here. You're finding the positive
25 ones and the negative -- the ones that agreed

1 with Trek ran 10 to 20 to 1. Might have even
2 been higher. And with any issue, you're going to
3 have people who favor one side or another.

4 Greg is a rider who won the Tour
5 de France three times. He's got a number of
6 people who are ardent supporters of his position,
7 and so you're going to come up with people from
8 time to time, and these are few and far between.

9 Q Who -- I'm sorry. Go ahead.

10 A And -- and we can go through and we can bring out
11 Trek dealers and we can, you know, go through
12 consumer e-mails on the positive side that
13 support Trek's position.

14 And I think the one thing is what
15 you're getting at here is you're getting at the
16 integrity of Trek and of the company. And that I
17 would challenge you to go out and talk to
18 consumers, talk to retailers, talk to people who
19 know Trek. There's a lot of people in here who
20 bring up the issue and they say, How long will
21 Trek last as a company?

22 Well, Trek's lasted about 30
23 years. If we go through the list of companies
24 that existed in the bicycle industry even 20
25 years ago and who is left here today, there

1 aren't a whole lot. This company is part of our
2 family. We've got a family-run company with
3 great employees, great retailers, and we really
4 put the integrity at the top of the list. It's a
5 very important thing to us.

6 Q Okay. Are you done answering?

7 A I am.

8 Q The -- when you say that the e-mails that were
9 coming that were 10 to 20 to 1, are you talking
10 about after your presentation that the e-mails
11 that were coming in to Trek were 10 to 20 to 1 in
12 favor of Trek's position?

13 A I am.

14 Q And who counted those e-mails?

15 A You know, I'm making a general statement there,
16 and I would defer to -- I would defer to counsel
17 on that.

18 Q Where did you get the 10 to 20 to 1 statistic?

19 A I am basing that based on conversations I've had
20 in the past with counsel.

21 Q Because we've looked at these e-mails, and it's
22 not even close to that.

23 A What -- what is it?

24 Q Well, based upon -- I'll represent to you, it
25 looks 60/40 in favor of LeMond.

1 A It's not 60/40 in favor of LeMond.

2 Q Well, then, I'm going to ask, if there's more
3 e-mails, that we're getting them and we're going
4 to have to come back and redepose you. Because
5 as -- as we have right now, that's your
6 statistic.

7 A Okay.

8 Q And if it's wrong, it's wrong.

9 A You know, the -- first of all, I would challenge
10 your 60 to 40 on the notes coming in. You get
11 notes coming in. You also talk to consumers, you
12 talk to retailers. I can just tell you that our
13 decision was strongly supported by retailers.

14 Q Do you think the people talking to Greg LeMond
15 that came up to him on the street were going to
16 say, hey, listen, by the way, I strongly support
17 Trek?

18 A Yeah, I do.

19 Q You do?

20 A There are a number of those people. Why don't
21 you take a look at one of the phone calls in the
22 past that Greg taped from Dan Thorton, a dealer
23 in Atlanta.

24 Q Okay. Well, if you -- do you honestly believe
25 that the people that are doing business with Trek

1 are going to come up and say, you know, John
2 Burke, I thought that that was the most shameful,
3 stupid presentation I've ever seen in my life?

4 A No, I don't think they are because I think they
5 looked at that presentation -- and those dealers
6 had been living this program. They've had
7 customers over the last eight years coming into
8 the stores saying I wouldn't even look at a
9 LeMond.

10 And there they had these small
11 business people who have invested in the
12 inventory, it's sitting there, and all the sudden
13 they're taking a look and there's ESPN, Greg
14 LeMond, "Lance Armstrong threatened my wife, my
15 life, and my livelihood." And there's a bicycle
16 dealer and he's going, "Not again. We went
17 through in this in 2001. Now we're going through
18 this in 2004. It just keeps going on and on."

19 Q And these independent bike dealers, they do
20 business with you, right?

21 A They do.

22 Q And they send you money for bikes, you provide
23 them with bikes, right?

24 A They do.

25 Q So they have a business relationship with you,

1 right?

2 A Absolutely.

3 Q Do they have any contracts that you know of with
4 LeMond or LeMond Cycling?

5 A Not that I'm aware of.

6 Q So when you are in a business relationship with
7 somebody, I mean, do you normally find that
8 that's a contentious relationship with one
9 another?

10 A No, I don't. But one of the things we do as a
11 company is we're very close to our customers, and
12 we really seek out what the problems with Trek
13 are.

14 I spend time -- we do things like
15 town halls where I go out into the marketplace.
16 We'll sit around with all the dealers in a room,
17 usually 20 at a time, and we'll go through all
18 the things they don't like about Trek. It's a
19 very open relationship, and when customers have
20 problems, they let us know.

21 That's one of the reasons why
22 we've been successful as a business, is we get
23 the input, we take a look at it, and we're always
24 trying to improve our business. So we're very
25 openminded to information and people's feelings

1 in the marketplace.

2 Q Based on these three communications that I've
3 shown you, what did you take from their input
4 with respect to your future business?

5 A I took from -- I took from these three people,
6 they were people -- there were some people who
7 disagreed with the position that we took.

8 Q Did you take any of their input and change any of
9 your behavior going forward?

10 A Well, I took the input, and no, I did not make
11 any change.

12 (Exhibit 144 was marked for
13 identification.)

14 BY MR. MADEL:

15 Q What is Exhibit 142?

16 A Exhibit 1 -- I have 144.

17 Q I'm sorry. 144. Sorry.

18 A 144 is an e-mail from Peter D. Beckman.

19 Q To Trek?

20 A Trek consumer.

21 Q And it's, again, dated the day after the
22 presentation, right?

23 A It is.

24 Q He said, "I just finished reading the article in
25 the Minneapolis Star & Tribune. Well, count me

1 A Well, yeah.

2 Q -- you've moved away from what your dad did?

3 A No, that's not the case. Because my dad was
4 intimately involved in the LeMond shenanigans
5 over the years. And, in fact, shortly before he
6 went into the hospital, he and I had a
7 conversation where we decided that we were going
8 to put an end to the LeMond agreement and we were
9 not going to renew the contract in 2010.

10 One of the reasons was is my dad
11 was just very disappointed with Greg's behavior
12 and how at time and time again Greg would say he
13 was going to do one thing, give us his word, and
14 then he would do something completely different.
15 All right?

16 He and I had that conversation in
17 October of 2007. And then we did the honorable
18 thing. I met with Greg and I said, listen, Greg,
19 we obviously have two different views here.
20 We're going to go a different way. We hope -- we
21 want -- we wish you the best of luck, but I want
22 to let you know now we're not going to renew the
23 contract after 2010. We're going to honor the
24 contract, but this will allow you some time to go
25 out there and put together another deal or do

1 whatever you want to do.

2 Q Was your dad in favor of noticing the breach of
3 contract in 2004?

4 A I'm sure that he was.

5 Q Okay. You don't remember, though, for certain?

6 A I do not remember. But just like I said, he
7 loved negotiating and contracts. He would have
8 been aware of litigation there. He hated
9 litigation. We did everything we could before
10 we'd get into litigation.

11 Q He was obviously a wise man?

12 A He was.

13 Q The -- do you recall he had communications with
14 different board members in 2004 that were trying
15 to dissuade you from noticing a breach in 2004?

16 A I'm not aware of that.

17 Q Do you recall any e-mails to that effect with
18 you?

19 A Not to the best of my knowledge.

20 Q Do you recall any communications that he had with
21 you in 2004 where he said, you know, son, I think
22 you're going to have to listen to the board with
23 respect to what you want to do with LeMond, or
24 words to that effect?

25 A I'm not sure. I'm sure there might be a

1 Q All right.

2 A Sounds like a big word, though.

3 Q All right. You've got to show that your damage
4 was caused by antitrust contact as opposed to
5 something else.

6 A Uhm-uhm.

7 Q Have you ever tried to quantify the damage to
8 Trek caused by LeMond's statements versus
9 articles that just came out about Lance
10 Armstrong's alleged doping that LeMond had
11 nothing to do with?

12 A No.

13 Q Would you agree with me that the articles that
14 have come out about Lance Armstrong's alleged
15 doping have not helped Trek's sales?

16 A They have not helped Trek's sales on the whole?

17 Q Yes.

18 A Lance Armstrong has been very positive for Trek.

19 Q What -- when L'Equipe comes out with an
20 investigation on Lance Armstrong and says that he
21 tested positive, you know, six times in 1999, and
22 I think those articles came out in 2006, would
23 that have had a positive or a negative impact on
24 Trek sales?

25 A I think in -- it does not have a positive impact.

1 Q Would it have a negative impact?

2 A I suppose it could. It's not something that I
3 really heard about. It's not something that we
4 saw either through dealer reaction or in the
5 numbers.

6 Q Okay. When -- when people like Frankie Andreu
7 came out and said I know for a fact that Lance
8 Armstrong has taken performance-enhancing drugs
9 while he won the Tour de France, would that have
10 had a positive or a negative impact on Trek
11 sales?

12 A I don't think it had any impact.

13 Q Okay. Do you think that any of these
14 articles/investigations of Lance Armstrong that
15 Mr. LeMond had nothing to do with had a positive
16 or a negative impact on Trek sales?

17 A They would probably have a negative impact.

18 Q Have you ever tried to quantify between those
19 sorts of articles that Mr. LeMond had nothing to
20 do with and these statements that Mr. LeMond has
21 made in 2001 or 2004?

22 A No, we haven't, but I think --

23 MR. WEBER: Can I -- let me just --
24 hold on. Just let me interject, make sure we're
25 talking about the same thing.

1 You had a series of questions that
2 were talking about impact on Trek sales.

3 MR. MADEL: Uhm-uhm.

4 MR. WEBER: Now you're jumping over to
5 LeMond's comments and impact on LeMond sales.

6 MR. MADEL: Right.

7 MR. WEBER: Are you mixing the two --

8 MR. MADEL: No.

9 MR. WEBER: -- or what is your question
10 looking for?

11 MR. MADEL: I was going to ask both,
12 but, I see -- you know, I see what you're driving
13 for.

14 BY MR. MADEL:

15 Q The -- you know, Trek sells LeMond bikes, right?

16 A Right.

17 Q So when you do your aggregate number at the very
18 end of your total sales --

19 A Yeah.

20 Q -- that includes LeMond bike sales?

21 A It does.

22 Q All right. So have you ever tried to say, hey,
23 here is the slice of negative impact to Trek
24 sales caused by LeMond's statements and here is
25 the negative impact caused by general

1 investigations into Lance Armstrong's alleged
2 doping?

3 A You know, Lance is the most tested athlete in
4 history and that -- doping allegations, I think,
5 were litigated in the SCA trial. And in the
6 general marketplace, the allegations against
7 Lance Armstrong have not had a measurable impact.

8 Q But have you ever --

9 A And the positive of Lance Armstrong has been
10 significant.

11 Q I'll just move to strike as nonresponsive.

12 Have you ever tried to quantify
13 between the -- on the one hand --

14 A No.

15 Q Let me finish.

16 Have you ever tried to quantify on
17 the one hand the impact caused to Trek sales
18 caused by Greg LeMond's statements and on the
19 other hand the impact caused to Trek sales due to
20 investigations into Lance Armstrong's alleged
21 doping?

22 MR. WEBER: Let me just interject again
23 an objection as to vagueness. When you say
24 impact on Trek sales from LeMond's statements,
25 are you talking about the Trek brand, the LeMond

1 brand, or both?

2 MR. MADEL: Go ahead and answer.

3 MR. WEBER: If you understand the
4 question, you can answer. If you don't
5 understand it, you can ask him to rephrase it.

6 THE WITNESS: We didn't do either.

7 MR. MADEL: The -- let's just go to
8 Exhibit 145 or 146.

9 (Exhibit 146 was marked for
10 identification.)

11 BY MR. MADEL:

12 Q What is Exhibit 146?

13 A It is a note entitled "John Burke's Tirade on
14 Greg LeMond" sent to TrekBikes.com.

15 Q And it's from an LA, but I'm assuming that it's
16 not Lance Armstrong. And it says
17 Lancer@Austin360.com [sic], right?

18 A Uhm-uhm.

19 Q Is that a yes?

20 A Yes.

21 Q And it's dated April 10, 2008?

22 A It is.

23 Q And it says, "John Burke may be a good
24 businessman, but his speech is full of lies. His
25 use of the word family over and over was

1 VIDEO TECHNICIAN: We're going off the
2 record at 3:13 p.m.

3 (A recess was taken.)

4 VIDEO TECHNICIAN: Back on the record
5 at 3:33 p.m.

6 (Exhibit 152 was marked for
7 identification.)

8 BY MR. MADEL:

9 Q Mr. Burke, I'm showing you what's been marked as
10 Exhibit 152.

11 You're not involved in any of the
12 e-mail strings here, but I was going to ask you
13 if you recognize the handwriting on this page?

14 A I do.

15 Q Whose is it?

16 A That would be mine.

17 Q Okay. I'm assuming, then, that if you recall,
18 that Mr. Burns printed out this e-mail string and
19 provided it to you at some time?

20 A I -- I guess that would be the case.

21 Q And at the top there, it looks like there's a
22 number of numbers.

23 A Yeah.

24 Q And then it says "Lance call."

25 A Okay.

1 Q Do you know what that -- does this -- do these
2 notes reflect a conversation that you had with
3 Lance Armstrong?

4 A I think it does.

5 Q And was this --

6 A I'm going with yes.

7 Q Okay. Was -- was that conversation with
8 Mr. Armstrong around June 2004?

9 A I do not know when that conversation took place.
10 I'm guessing it -- since the date from Sidney to
11 Bob is June 15th, 2004, and I wrote on top of
12 this, I would assume it was sometime around that
13 date. I cannot be sure of that.

14 Q Point 1, you said -- you wrote, "Exactly where I
15 am going." Do you know what that refers to?

16 A I do not.

17 Q Point 2, it says, "Make a statement like last
18 time." What does that refer to?

19 A I can only guess that it might refer to the
20 statement that Greg made in 2001.

21 Q Do you recall that in 2004 Mr. Armstrong was
22 asking you to get Mr. LeMond to retract his 2004
23 statement in a manner similar to the 2001
24 statement?

25 A I think that statement was that Greg said that

1 Lance threatened his life, his wife, and his
2 livelihood, and so I think that would be correct.

3 Q Point 3 says, "Create a space for them to live
4 together."

5 A Yep.

6 Q Was Mr. Armstrong asking you to, again, be the
7 kind of secretary of state and create a space for
8 Mr. LeMond and Mr. Armstrong to live together?

9 A Indeed he was. On numerous occasions, especially
10 from 2004 on, Lance became more, "I just wish we
11 could all get along here."

12 Q And point 4 says, "I can't tell you what to do
13 with LeMond."

14 A That's correct.

15 Q And that was sentiment provided by Mr. Armstrong
16 to you?

17 A Yes.

18 Q And point 5 is "Emma O'Reilly."

19 A Yep.

20 Q What was that regarding?

21 A I do not know.

22 Q Do you know that Emma O'Reilly is one of the
23 people that has stated that Lance Armstrong has
24 used performance-enhancing drugs?

25 A You mentioned that earlier.

1 Q Okay. You don't recall that yourself, though,
2 other than me telling you?

3 A I -- I was kind of familiar with a -- probably
4 from conversations with Greg that there was some
5 swaniere [phonetic], and you informed me that it
6 was Emma O'Reilly, so that's where I am on that.

7 Q Do you recall what you discussed regarding Emma
8 O'Reilly with Mr. Armstrong?

9 A No, I don't remember that conversation.

10 Q And point 6, you just wrote, "Greg LeMond." Do
11 you recall what that was regarding?

12 A I do not.

13 Q And 7, "Craig Nichols will make a statement.
14 Not," exclamation point. Do you know what that
15 refers to?

16 A You know, I don't. That kind of seems odd, but
17 it -- I just don't know what that means.

18 Q Then 8, it says, "Kathy on tape," right?

19 A It does.

20 Q And Mr. LeMond's wife's name is Kathy, right?

21 A That is correct.

22 Q And it's spelled the exact same way as you have
23 right there?

24 A Right.

25 Q Do you know what you were referring to when you

1 wrote "Kathy on tape" in Exhibit 152?

2 A I don't.

3 Q And you know -- do you recall if Mr. Armstrong
4 was alleging that Kathy LeMond was on tape saying
5 something?

6 A No.

7 Q Do you recall anybody ever telling you that Kathy
8 LeMond was on tape saying something?

9 A I don't recall anyone telling me of any taping in
10 this regard except for the phone conversations
11 that Greg LeMond taped.

12 Q And then 9, "Critical piece is Emma O'Reilly."

13 A Uhm-uhm.

14 Q Do you see that?

15 A I do.

16 Q Do you know what that refers to?

17 A I'm guessing that refers to something about Emma
18 O'Reilly and comments that she made.

19 Q Is there a reason in 2004 that Mr. Armstrong
20 would be calling you in order to discuss these
21 people that were making allegations regarding
22 doping to you?

23 MR. WEBER: Object as to foundation as
24 to Mr. Armstrong's state of mind unless he
25 explained to you why he was calling you.

1 THE WITNESS: Yeah, I don't know.

2 BY MR. MADEL:

3 Q Did you discern any reason from your conversation
4 with Mr. Armstrong why he was bringing up Emma
5 O'Reilly with you during this conversation?

6 A No. I'm guessing it's -- I mean, Greg would go
7 on and on for quite some time about doping and
8 Lance Armstrong, and so I'm guessing that somehow
9 it referred to that.

10 Q Do you recall if Mr. Armstrong had ever asked you
11 to find out from Mr. LeMond exactly what his
12 evidence was with respect to Mr. Armstrong taking
13 performance-enhancing drugs?

14 A Absolutely not. Unfortunately, I had many
15 conversations with Greg listening to what Greg
16 thought was -- what he was thinking, but not from
17 Lance.

18 Q This "Critical piece is Emma O'Reilly," did
19 Mr. Armstrong ever ask you to reach out to Emma
20 O'Reilly for anything?

21 A Absolutely not.

22 Q And point 10, it says, "Kathy LeMond will be
23 sued. France, et cetera. She will be sued."

24 A Uhm-uhm.

25 Q Do you see that?

1 A I do.

2 Q Do you recall what Mr. Armstrong told you about
3 Kathy LeMond being sued?

4 A I do not.

5 Q And do you know if Mr. Armstrong has ever sued
6 Kathy LeMond?

7 A From what I know, he has not.

8 Q Has Mr. Armstrong or anybody on behalf of Mr.
9 Armstrong threatened Mr. LeMond with lawsuits
10 over the years?

11 A I cannot remember the specifics. I mean, there's
12 a point here, a point 10, at certain times
13 Lance can get amped up and say things under the
14 heat of the moment, but I don't think it was ever
15 anything serious.

16 Q Back in 2001, do you recall telling Mr. LeMond
17 that Armstrong's going to sue you?

18 A Yeah.

19 Q And --

20 A Well, let me -- let me take that back. No, I
21 don't remember it, but I could assume that -- I
22 could believe that that happened.

23 Q And you had such conversations with Mr. Stapleton
24 as well, right?

25 A Possibly. I don't recall.

1 Q I mean, did you ever get the impression from
2 Mr. Armstrong that any time one of these
3 statements came out, he said he was going to sue
4 Mr. LeMond?

5 A Well, in the 2001 situation, I think there was
6 some talk of that. But Lance, you know, he's --
7 he is -- he can get pretty excited. And in the
8 heat of the moment, he can say things. But, you
9 know, especially as time went on, as my notes
10 indicated up here, what he really wanted was
11 peace with Greg LeMond.

12 Q Well, in point 10, though, he said "Kathy LeMond
13 will be sued," and you wrote it again, "She will
14 be sued."

15 A Uhm-uhm.

16 Q Is that a yes?

17 A Yes, that's what I wrote.

18 Q And that was not your belief on behalf of you or
19 Trek, right?

20 A No, that was not my belief. I'm just adding to
21 you from the point up here --

22 Q Yep.

23 A -- to create a space for them to live together,
24 and I'm also taking from my recollections of
25 other conversations with Lance that what he

1 sought was he really wanted to coexist with Greg
2 LeMond.

3 Q And I'm assuming that you wrote these notes in
4 chronologic order according to the conversation
5 as it occurred with Mr. Armstrong?

6 A I would guess that I did.

7 Q And so in point 3, he's talking about creating a
8 space to live together, and point 10 he's saying
9 "Kathy LeMond will be sued. She will be sued,"
10 right?

11 A That's what it says.

12 Q And you were writing down what Mr. Armstrong was
13 saying with respect to these points 1 through 12
14 in Exhibit 152, right?

15 A Yes, I was.

16 Q And point 11 there, now you're writing
17 "Affidavit" with a line to the name "Bill and
18 lawsuit."

19 A Uhm-uhm.

20 Q Right?

21 A Yep.

22 Q So, again, points 10 and 11 are both talking
23 about litigation?

24 A Yes.

25 Q And what were you referring to there when you did

1 A By his racing accomplishments, by his
2 endorsements of Trek products, and by being an
3 overall excellent ambassador for the brand, by
4 keeping his word on his commitments. He's done a
5 very good job with that.

6 Q And all of those have contributed to Trek's
7 bottom line; is that fair?

8 A They have -- yes.

9 Q With respect to Stapleton in particular, has he
10 said a number of derogatory things regarding
11 Armstrong to you privately -- regarding LeMond to
12 you privately?

13 A No, not to my knowledge.

14 (Exhibit 153 was marked for
15 identification.)

16 BY MR. MADEL:

17 Q Can you tell me what Exhibit 153 is, please.

18 A Looks like it's an e-mail chain between Bart
19 Knaggs and I regarding Greg LeMond's lawsuit at
20 the Yellowstone Club.

21 Q And there's a big portion on the second page that
22 has a big black box.

23 Do you see that?

24 A I do.

25 Q Do you know what's beneath that?

1 A I do not.

2 Q Do you know if it's any communication relating to
3 counsel?

4 A Not a clue. I do not.

5 Q Bart Knaggs here, he works for Lance Armstrong;
6 is that right?

7 A He does.

8 Q And he's never been a -- an attorney on behalf of
9 Trek, has he?

10 A He has not.

11 Q When -- it looks like the first e-mail here says,
12 "Re: Hello Bart," with a bunch of exclamation
13 points, right?

14 A Uhm-uhm.

15 Q Did you send that e-mail to -- to Bart?

16 A Which would be the first e-mail?

17 Q Well, it looks like --

18 A I'm not quite --

19 Q -- at the very bottom of this it says --

20 A I'm not good on these chains.

21 Q Yeah, if you go -- you've got to read from the
22 bottom going up. And it looks as if the first
23 one is the Wednesday, November 22, 2006, at
24 3:48 p.m. And --

25 A Yeah.

1 Q And he says, "John: I'll get it done, but I'm in
2 NYC and Lance is in L.A. Just to help, recheck
3 on me Monday, will you? Yellowstone Club? Happy
4 Thanksgiving, B," right?

5 A Yep.

6 Q So it looks like the first e-mail was from you to
7 Bart.

8 A Okay.

9 Q Is that fair?

10 A I don't know.

11 MR. MADEL: I mean, and, Ralph,
12 there's --

13 THE WITNESS: Is the first e-mail the
14 one up on the top here?

15 BY MR. MADEL:

16 Q No, if you -- look at the times, follow the times
17 down.

18 A Okay. Okay.

19 MR. MADEL: Ralph, I want you to
20 re-review this. I don't see any reason that this
21 shouldn't be produced. The first e-mail is
22 clearly from Burke to Knaggs, "Hello Bart," and
23 there's a big blackout of it. So we're -- we
24 want that produced.

25 MR. WEBER: Well, you're assuming,

1 aren't you, that's what's been blocked out is an
2 e-mail from John to Bart, right?

3 MR. MADEL: I know e-mail and subject
4 re inserted usually means a reply to the original
5 e-mail.

6 MR. WEBER: So you're assuming that
7 what's blocked out is the e-mail from Bart --
8 from John to Bart?

9 MR. MADEL: Yes.

10 MR. WEBER: Okay. So I'll go back and
11 see what it actually is.

12 BY MR. MADEL:

13 Q And there it says, "What about the Yellowstone
14 Club?"

15 And then you said, you know, "I'll
16 get it done, but I'm in NYC, Lance is in L.A.
17 Just to help, recheck on me Monday, will you?"
18 And he said, "Serious? LeMond in big lawsuit
19 with founder. Very, very ugly." Right?

20 A Uhm-uhm. Yeah.

21 Q And you responded, "Should discuss next time on
22 the phone."

23 A Uhm-uhm.

24 Q Is that a yes?

25 A Yes.

1 Q And he said, "You should research up on it online
2 and beware with your boy, he may have picked the
3 wrong fight."

4 And then you again told him, "Give
5 me a call," right?

6 A Yep.

7 Q Was there an effort on your part when dealing
8 with the Armstrong camp that you did not want to
9 have written records regarding your
10 communications with them?

11 A No.

12 Q Why were you telling him twice then to discuss
13 this on the phone as opposed to putting it in
14 writing?

15 A I think we talked about it earlier in regards to
16 something else where I made a phone call to a
17 board member. I'm more of a phone guy than an
18 e-mail guy.

19 Q And do you know the result of the Yellowstone
20 Club fight?

21 A I do know the result of that.

22 Q Okay. What was that result?

23 A The -- I'm not an expert on this, but the result
24 to the Yellowstone lawsuit is that Greg won a
25 lawsuit against the owner of the Yellowstone

1 Club. Greg told me all about that in detail a
2 number of times.

3 Q Did -- do you have any reason to know why anybody
4 from Armstrong's camp would be interested in
5 knowing of LeMond's lawsuit minority shareholder
6 dispute with a club in Montana?

7 A No.

8 VIDEO TECHNICIAN: Excuse me, Counsel.
9 May we pause to do that tape change?

10 MR. MADEL: Yep.

11 VIDEO TECHNICIAN: Great. Thank you.

12 This is the end of Videotape
13 No. 4. We're going off the record at 3:55 p.m.

14 (A recess was taken.)

15 (Exhibit 154 was marked for
16 identification.)

17 VIDEO TECHNICIAN: This is the
18 beginning of Videotape No. 5 in the continuing
19 deposition of John Burke. We are back on the
20 record at 3:58 p.m.

21 BY MR. MADEL:

22 Q What was Exhibit 157? No, 154, sorry. My bad
23 writing.

24 What is Exhibit 154?

25 MR. WEBER: We haven't marked 157 yet.

1 MR. MADEL: I was wrong. It's
2 Exhibit 154. I think it's marked.

3 THE WITNESS: Okay. I have 154.

4 BY MR. MADEL:

5 Q Yeah.

6 A Okay. So you're asking me what it is?

7 Q Yes.

8 A It seems to be an e-mail from Bill Stapleton to
9 me.

10 Q At the very top?

11 A At the top. So it starts with a note from Lance
12 Armstrong to me, copied to Bill Stapleton and
13 Bart Knaggs. Subject: "Our boy is at it again."

14 Q And it looks like Mr. Armstrong sends you a link
15 to some story that said Landis/LeMond, right?
16 Had Landis/LeMond in that address?

17 A Yes.

18 Q And this would have been right around the time of
19 Mr. Landis's arbitration at the time in
20 California, right?

21 A I do not know.

22 Q And after Mr. Stapleton replies to all and says
23 "Unbelievable," you then replied to him and say,
24 "You might want to give me a call sometime this
25 weekend." And then you give him your home

1 numbers again, right?

2 A Right.

3 Q Is there a time where you sent, you know, any
4 written communications to anybody in the
5 Armstrong camp explaining why LeMond was saying
6 anything?

7 A Not to my knowledge.

8 Q Was there a reason that you didn't want that in
9 writing?

10 A You know, I -- I mentioned a number of times I'm
11 more of a phone guy than an e-mail guy. I'll
12 leave it at that. I hate long e-mails.

13 (Exhibit 155 was marked for
14 identification.)

15 BY MR. MADEL:

16 Q Showing you what's been marked as Exhibit 155.
17 First thing, I'm going to direct your attention
18 to the e-mail on Trek 010385.

19 Do you see that?

20 A I do.

21 Q And that's an -- the first e-mail is a memo or an
22 e-mail from Lawrence Temple to Bob Burns
23 regarding the LeMond deposition, right?

24 A Yes.

25 Q And who's -- was Lawrence Temple a lawyer?

1 A Yes, he is.

2 Q And is he an in-house lawyer for Lance
3 Armstrong's company?

4 A I do not know. I've never met him.

5 Q Okay. And he writes there "Bob, in Lance's
6 lawsuit against SCA regarding payment of the
7 bonus insurance, SCA has noticed Greg LeMond's
8 deposition which is scheduled for this Thursday.
9 The lawyers representing Lance, Tim Herman and
10 Shawn Breen, would like to talk to you. I'm
11 giving them your number, but I wanted you to
12 give" -- "but I wanted to give you a heads-up
13 first."

14 "I'm in a meeting now and I'm
15 about to catch a plane pretty soon, but I'll give
16 you a call soon to discuss this and other things.
17 As always, thanks for all your help, Lawrence."

18 A Uhm-uhm.

19 Q The -- it looks as if, then, that e-mail to Burns
20 got to you; is that right?

21 A I don't know.

22 Q Well, do you see it says forward, "FW: LeMond
23 deposition" and that matches identically the
24 subject of the line -- of the subject line --

25 A Oh.

1 Q -- from Lawrence Temple?

2 A Okay.

3 Q Do you see that?

4 A I do.

5 Q But there's no e-mail in between from Burns to
6 you, right?

7 A Okay.

8 Q Do you know if there was an e-mail in between
9 there?

10 A No idea.

11 Q And do you know why anybody from the Armstrong
12 camp would be approaching somebody within Trek
13 regarding a deposition of Greg LeMond and the SCA
14 arbitration?

15 A I do not.

16 Q The next e-mail is from you to your dad, right?

17 A It is.

18 Q And you're not a lawyer, right?

19 A I am not a lawyer.

20 Q And your dad's not a lawyer?

21 A Definitely not.

22 Q Was not a lawyer. Pardon me.

23 Yet there's a big black box there
24 in that e-mail, right?

25 A There appears to be.

1 Q And as you sit here today, you don't know what's
2 beneath that black box?

3 A I do not.

4 Q The e-mail before that begins with an e-mail from
5 Mark Higgins to you, Armstrong, and Stapleton,
6 the subject line "Article," and it's dated
7 Sunday, June 25, 2006, at 12:19 p.m.

8 Do you see that?

9 A I do.

10 Q And he's saying, "John, Lance was about to take
11 off for the Bahamas but asked me to send this
12 along to you. He will be back on cell in about
13 three hours. Thanks."

14 A Yeah.

15 Q Do you recall this?

16 A I do.

17 Q And this was the Lance threatened me, threatened
18 my wife, my business, my life, right?

19 A Yep.

20 Q That article was in 2006, right?

21 A Yeah.

22 Q And next e-mail is from you to Mark Higgins.

23 Incidentally, what did Mark
24 Higgins do for Armstrong?

25 A He was like a personal assistant, kind of travels

1 with him.

2 Q And you said, "Mark, thanks for the article. Is
3 this the entire article or just an English
4 summary translation? If you have the entire
5 article, even if it is French, please send it.
6 Thanks, JB."

7 A Yep.

8 Q Why did you want the entire article?

9 A I think always in these situations between
10 Lance and Greg, I was always the peacemaker, and
11 I always find that before you do anything, you
12 try to get all of the facts.

13 And sometimes, you know, when you
14 see a headline like Lance threatened my wife, my
15 business, and my life, I just want to make sure
16 that it's not being taken out of context and
17 there isn't more along to it.

18 Q Did Lance Armstrong threaten to sue Kathy LeMond?

19 A Not that I'm aware of.

20 Q Okay. What -- what about in Exhibit 152?

21 A I know. I answered the same there. I wrote
22 something down, but I can't recall that he said
23 "I'm going to sue Kathy LeMond."

24 Q Other than what you wrote down, "Kathy LeMond
25 will be sued. France, et cetera. She will be

1 sued"?

2 A That's what I wrote down, but I can't equate it.
3 Why is he going to sue Kathy LeMond when Greg's
4 the one who made the comments?

5 Q I have no idea.

6 A That's what I'm telling you; I don't know.

7 Q And I'm assuming also on the first page of
8 Exhibit 155 you don't know what's beneath that
9 black box there as well?

10 A No idea.

11 (Exhibit 156 was marked for
12 identification.)

13 BY MR. MADEL:

14 Q Exhibit 156, just so I'm clear there, Mr. Burke,
15 can you tell me what the Bates label is of the
16 last page that you're looking at there on this
17 exhibit?

18 A It's 156.

19 Q Yeah. Thank you. Or, I mean -- no, that's the
20 exhibit number. I'm sorry, these numbers right
21 here on the very last.

22 A Oh, it's 01 --

23 Q On the very last page, what's that? Just the
24 last two digits is all I need.

25 A -53.

1 Q -53, thanks.

2 The first page of Exhibit 156 is
3 an e-mail from Lance Armstrong to you, Bill
4 Stapleton, Bart Knaggs, Mark Higgins, and Tim
5 Herman dated July 17th, 2008; is that right?

6 A Yes.

7 Q And Armstrong writes, "The part 2 is on
8 Velonews.com now. Talks about Trek and
9 litigation. Worth watching. The guy's a
10 mumbling, bumbling idiot."

11 A Yep.

12 Q And did you take that to mean that he was
13 referring to Greg LeMond?

14 A I -- well, I don't exactly remember what this is,
15 but I'm guessing that would probably be the case.

16 Q The next e-mail on -- I think it begins on Trek
17 010349 is the one from you to -- to -- I'm sorry,
18 that Lance Armstrong originally wrote to you?

19 A Yeah.

20 Q And he writes, "Go to velonews.com and scroll
21 down a bit to the video clips/interviews on the
22 left side. There's a plus or minus 7-minute
23 interview with LeMond that is unreal. He is
24 either crazy or drunk. By the way, he actually
25 seems like he's slurring his words. He even says

1 his VO2 hasn't really changed to date. What,"
2 question mark, exclamation point, question mark.

3 "It's nearly seven minutes and his
4 first response to a question is close to three to
5 four minutes. Amazing. Hermie, good depo stuff
6 for sure. This fucker is a wingnut. L," right?

7 A Yeah.

8 Q Did Mr. Armstrong spend a lot of time looking for
9 interviews that Mr. LeMond made on the Internet,
10 to your knowledge?

11 A Mr. Armstrong loves to surf the Internet. He is
12 very knowledgeable about everything going on in
13 cycling, from Greg LeMond to the racing scene to
14 bike snob New York City to single speeds. He
15 knows what's going on.

16 Q Do you know -- have you ever talked to him about
17 the amount of time that he spends searching for
18 stories about him on the Internet?

19 A The amount of time --

20 Q That Lance Armstrong spends searching for stories
21 about Lance Armstrong.

22 A I have not.

23 Q Does it seem to be an unusual amount of e-mail
24 here where Lance Armstrong is sending you, you
25 know, somebody that's -- he's got a contract of

1 endorsement where he's sending you stories about
2 himself and Greg LeMond to you? Did that seem
3 unusual?

4 A I mean, this -- this guy had been through a lot.
5 I mean, this guy had been through the 2001,
6 you're the greatest hero or the greatest fraud.
7 He had been through the you threatened my wife,
8 my life, and my livelihood. He'd been through so
9 much Greg LeMond stuff.

10 Here's a guy who's out there,
11 who's won the tour seven times. He's done
12 possibly more than any person in the last decade
13 to fight cancer worldwide, and he's got Greg
14 LeMond shooting at him left and right. And, you
15 know, it -- it bothered him.

16 Q And you wrote back, "Give me a call today. I
17 have a story that beats this, JB."

18 A Uhm-uhm.

19 Q Is that right?

20 A I did.

21 Q What was the story that beat his?

22 A I can't remember.

23 Q And then it -- he writes back, "Boss, tried you.
24 Give me a buzz on my cell. Thanks, L"; is that
25 right?

1 A Yeah.

2 Q Was that -- did Lance Armstrong have a nickname
3 for you where he called you boss?

4 A No. He usually referred to -- well, sometimes he
5 referred to me as boss or team manager.

6 Q Did you ever manage his team?

7 A No, I didn't. But it stems from a situation in
8 1999 after he won the tour. In his contract it
9 stated that he needed to ride two mountain bike
10 races, and we let him know you don't need to do
11 that. He goes, no, I always live up to my
12 commitments. And so he went to Vermont to race
13 in this race.

14 It was the first time I met him
15 and there was a press conference there, must have
16 been 3-, 400 people. It was after he had won the
17 tour.

18 And we left the press conference
19 and we got in the car, and he said we're going
20 off to have a beer. And I said, jeez, is there
21 drinking allowed on the Trek mountain bike team?
22 Just kind of joking. And he said -- he said,
23 well, that's chapter 23 of the team handbook,
24 boss. And so we would always joke about the team
25 handbook.

1 Q The next two pages of Exhibit 156 are entirely
2 blacked out, right?

3 A They seem to be.

4 Q And do you have any idea what's beneath those
5 redactions?

6 A I do not.

7 Q And the top of Trek 010353 is blacked out as
8 well, right?

9 A Yes.

10 Q And the e-mail immediately after that is from
11 Lance Armstrong to you; the subject line, "For
12 your reading displeasure."

13 A Uhm-uhm.

14 Q Is that right?

15 A Yes.

16 Q And that's Friday, 15 February 2008, right?

17 A It is.

18 Q And the other e-mails were in July of '09?

19 A Okay.

20 Q Is that right?

21 A Yes.

22 Q Well, it actually seems kind of -- I think it's
23 '08. I think I misread that.

24 A July of '08. We're in '09 now.

25 MR. WEBER: We haven't gotten -- we

1 haven't gotten to July of '09 yet.

2 MR. MADEL: Yep.

3 BY MR. MADEL:

4 Q So these were both before and after your April 8,
5 2008, presentation?

6 A That's correct.

7 MR. WEBER: Did we skip 155?

8 THE WITNESS: 155 is here.

9 MR. WEBER: Okay.

10 THE WITNESS: And this is 156.

11 MR. WEBER: Right.

12 (A discussion was held off the record.)

13 MR. MADEL: The -- sorry, I just got to
14 get situated here one second.

15 BY MR. MADEL:

16 Q What was the statement that LeMond said in 2004
17 that you contend damaged Trek?

18 A I don't have it right here.

19 Q You don't recall it?

20 A I -- I think that was the he threatened my wife,
21 my life, and my livelihood.

22 Q Had you ever talked to Bill Stapleton where you
23 told him that you agreed with his feelings
24 regarding Mr. LeMond?

25 A Could you repeat that?

1 (The preceding question was read by the
2 reporter.)

3 THE WITNESS: Oh. You know, I'm sure
4 there are -- I always got put in the middle here
5 as the peacemaker, and as part of being the
6 peacemaker, I have to be a little conciliatory to
7 people. And I'm sure there were things that I
8 agreed with that Bill Stapleton said about Greg
9 LeMond and I'm sure there are a few things that I
10 agreed with that Greg LeMond said about Lance
11 Armstrong.

12 BY MR. MADEL:

13 Q What were the things that you agreed with Greg
14 LeMond about Lance Armstrong?

15 A Boy, that's a good question. Well, I think he
16 said he was a great champion. I agreed with
17 the -- either the greatest champion in the world,
18 I agreed with the first half of that statement.

19 Q Is there anything else?

20 A I would agree when Greg would bring up
21 Lance taking potshots at Greg. I didn't think
22 that was helpful, and I -- I thought Greg had
23 some -- some valid points there.

24 Q Anything else?

25 A Not that I can recall.