

# Dallas Judge Agrees with Lance Armstrong in Legal Case announced by Herman Howry & Breen L.L.P.

AUSTIN, TX /Send2Press Newswire/ – Austin resident and six-time Tour de France winner Lance Armstrong insists he has always played by the rules. Last week, a Dallas district court judge ordered that a sport promotion company involved in a legal case with Armstrong do the same.

Judge Adolph Canales disqualified French lawyer Thibault de Montbrial, an arbitrator appointed by SCA Promotions in a case brought against SCA by Armstrong and his team owner, Tailwind Sports. In 2004, SCA refused to pay \$5 million of a \$10 million performance award Armstrong earned by winning six consecutive Tours de France. SCA cited rumors of performance enhancement by Armstrong, despite exhaustive testing at the 2004 Tour and prompt payment of the remaining \$5 million of the performance award by two other insurers.

SCA insured \$3 million and \$1.5 million Armstrong performance awards in 2002 and 2003, respectively, and honored its obligation in both years.

Judge Canales agreed with Armstrong's attorney Tim Herman that arbitrator Montbrial had a clear and ongoing conflict of interest in the case and that his appointment violated the provisions of American Arbitration Association rules which require that all arbitrators be "impartial and independent." Montbrial represents an author and publisher who are both defendants in a libel and slander suit brought by Armstrong in France. Armstrong and Tailwind had asked Judge Canales to disqualify Montbrial.

Attorney Herman argued that SCA's appointment of Montbrial "clearly demonstrated its bad faith in refusing to pay what it owes and made a mockery of the arbitration process." The order striking Montbrial agreed, finding that the evidence revealed "clear, present and ongoing conflict of interest" and that the appointment would "unduly prolong and hinder the efficient conduct of the arbitration proceeding." SCA was given until February 1 to appoint a new arbitrator.

When SCA refused to pay its share of Armstrong's 2004 performance award, Armstrong invoked the contract's arbitration clause in early September. He confirmed that he had "furnished the Tour de France testing protocols and proof of compliance to SCA on August 16, 2004, and again in September shortly after SCA requested test results." The arbitration process was originally to be conducted by 3 arbitrators, one selected by each party and the third selected by both parties together or by the court. Armstrong had appointed Ted Lyon, a former Senator and highly-regarded Dallas lawyer with whom neither he nor his attorneys had any relationship. SCA then appointed Montbrial.

Tailwind purchased the insurance contract with SCA for \$420,000 before the

2001 Tour de France, after Armstrong had already won the Tour twice consecutively. To earn the \$5 million award under the contract in question, Armstrong had to win another four consecutive Tours, a feat which had never been accomplished.

Until now.

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