

CAUSE NO. 04-9557

LANCE ARMSTRONG AND
TAILWIND SPORTS, INC.

V.

SCA PROMOTIONS, INC.

§
§
§
§
§
§

IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

M-298TH JUDICIAL DISTRICT

PLAINTIFFS' MOTION FOR CONTINUANCE

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Lance Armstrong ("Armstrong") and Tailwind Sports, Inc., ("Tailwind"), Plaintiffs/Movants in the above-referenced matter and file this, their First Motion for Continuance and in support thereof would respectfully show the Court the following:

1. On September 23, 2004, this Honorable Court heard Plaintiffs' Application for Temporary Restraining Order and, after the parties executed a Rule 11 Agreement (a copy of which is attached hereto as Exhibit "A"), which accomplished largely what the TRO sought, the Court ordered that the Plaintiffs' Application for Temporary Injunction would be heard two weeks from September 23, 2004, or October 7, 2004.
2. During the hearing on Plaintiffs' Application for Temporary Restraining Order, the Court, upon the request of the parties, ordered that expedited discovery would be authorized confined to the "adequate remedy at law" issue, principally the economic viability of Defendant.
3. On September 27, 2004, Plaintiffs submitted their Request for Production of Documents, seeking fundamental financial documents which, in the aggregate, would



10-4

reveal the financial viability of Defendant and the ability of Defendant to answer in damages.

4. On October 1, 2004, counsel for Plaintiffs inquired of counsel for Defendant as to whether or not Defendant intended to respond as requested in the request for production; Defendant unequivocally refused to produce those documents.

5. On October 1, 2004, Plaintiffs filed their Motion to Compel discovery, requesting that the documents be produced by Defendant three days in advance of any hearing on the temporary injunction.

6. Because the documents requested are essential to a determination and understanding of the adequacy of Plaintiffs' remedy, Defendant should be compelled to produce such documents immediately.

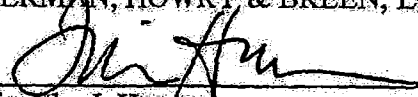
7. Until Plaintiffs are required to produce these fundamental and critically relevant documents, Plaintiffs are unable, as is the Court, to make a determination as to the financial viability of Defendant.

8. Plaintiffs further request that the Court grant the parties the opportunity to have this Motion heard telephonically on an expedited basis.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully request that the hearing on Plaintiffs' Application for Temporary Injunction be postponed until three days subsequent to the provision of the financial documents made the subject of Plaintiffs' Motion to Compel; Plaintiffs pray for such other relief to which they may show themselves entitled.

Respectfully submitted,

HERMAN, HOWRY & BREEN, L.L.P.



Timothy J. Herman
State Bar No. 09513700
1900 Pearl Street
Austin, Texas 78705-5408
(512) 474-7300
(512) 474-8557 FAX
ATTORNEYS FOR PLAINTIFFS

AFFIDAVIT OF TIMOTHY J. HERMAN

STATE OF TEXAS

COUNTY OF TRAVIS

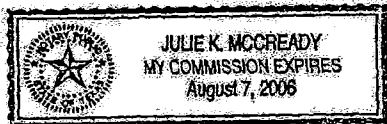
BEFORE ME this day personally appeared Timothy J. Herman, a person to me well known, who, upon his oath, stated as follows:


"I am the attorney of record for Plaintiffs in the above-referenced matter. I am over the age of eighteen (18), have never been convicted of a felony, and am fully competent to make this Affidavit. I am familiar with the allegations contained in the foregoing Motion for Continuance and, of my own personal knowledge, are true and correct."



TIMOTHY J. HERMAN

SWORN TO AND SUBSCRIBED this 4th day of October, 2004




NOTARY PUBLIC FOR THE STATE
OF TEXAS

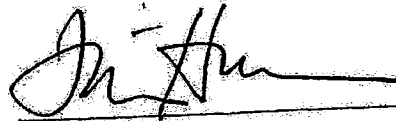
My Commission Expires:

8-7-06

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on counsel listed below via facsimile on October 4, 2004.

Michael L. Hood
David R. Taubenfeld
Haynes and Boone, LLP
3100 Bank of America Plaza
901 Main Street
Dallas, TX 75202



Timothy J. Herman

(e) should such Temporary Injunction be denied, such funds will be released to SCA Productions, Inc.

(f) the parties agree that the entering of this Agreement in no way constitutes an admission by any party of anything.

Respectfully submitted,

HERMAN, HOWRY & BREEN, L.L.P.

Timothy J. Herman
State Bar No. 09513700
1900 Pearl Street
Austin, Texas 78705-5408
(512) 474-7300
(512) 474-8557 FAX
ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on counsel listed below via facsimile on September 24, 2004.

David Taubenfeld
Haynes and Boone, LLP
3100 Bank of America Plaza
901 Main Street
Dallas, TX 75202

Timothy J. Herman

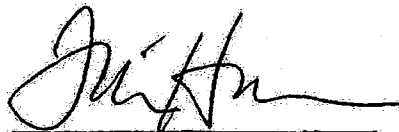
AGREED:

David Taubenfeld
ATTORNEY FOR DEFENDANT

CERTIFICATE OF CONFERENCE

Counsel for Movant and counsel for Respondent have personally conducted a conference at which there was a substantive discussion of every item presented to the Court in this Motion and despite best efforts the counsel have not been able to resolve those matters presented.

Certified on the 4th day of October, 2004 by:

A handwritten signature in black ink, appearing to read "Timothy J. Herman", written over a horizontal line.

Timothy J. Herman

CAUSE NO. 04-9557

LANCE ARMSTRONG AND
TAILWIND SPORTS, INC.

V.

SCA PROMOTIONS, INC.

§
§
§
§
§
§

IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

M-298TH JUDICIAL DISTRICT

NOTICE OF HEARING ON PLAINTIFFS' MOTION FOR CONTINUANCE

Plaintiffs hereby request that its Motion for Continuance be heard telephonically
on an expedited basis on the _____ day of _____, 2004 at _____ a.m./p.m.

Dated this ____ day of October, 2004

JUDGE PRESIDING