

1 NO. 380-810-99
 2 ELECTRONIC DATA SYSTEMS * IN THE DISTRICT COURT
 CORPORATION, *
 3 Plaintiff *
 *
 4 VS. * COLLIN COUNTY, TEXAS
 *
 5 NICHOLAS E. CHENOWETH *
 Defendant * 380th JUDICIAL DISTRICT
 6
 7
 8

9 ORAL DEPOSITION OF
 10 CHRISTI LYNN SIMMONS
 11 June 14, 1999
 12
 13
 14

15 ORAL DEPOSITION OF CHRISTI LYNN SIMMONS, produced
 16 as a witness at the instance of the Plaintiff, and
 17 duly sworn, was taken in the above-styled and numbered
 18 cause on the 14th day of June, 1999, from 1:17 p.m. to
 19 5:03 p.m., before Lynn Brooks, CSR in and for the
 20 state of Texas, reported by computerized
 21 transcription, at the offices of Lynn, Stodghill,
 22 Melsheimer & Tillotson, L.L.P., 750 North St. Paul
 23 Street, Suite 1400, Dallas, Texas, pursuant to the
 24 Texas rules of civil procedure and the provisions
 25 stated on the record.

1 A P P E A R A N C E S

2

3 FOR THE PLAINTIFF:
Ms. Cathy G. Ries
4 ELECTRONIC DATA SYSTEMS CORPORATION
Legal Affairs Division
5 5400 Legacy Drive
Plano, Texas 75024

6
FOR THE DEFENDANT:
7 Mr. Geoffrey S. Harper
LYNN, STODGILL, MELSHEIMER & TILLOTSON, L.L.
8 750 North St. Paul Street, Suite 1400
Dallas, Texas 75201

9

10

11 ALSO PRESENT:
Nicholas E. Chenoweth
12 Marla Thornton
Joe Hendrix

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1 PROCEEDINGS

13:17 2 MS. RIES: Taken pursuant to the
3 rules and —

13:17 4 MR. HARPER: Can we agree that she
5 can sign in front of any notary?

13:17 6 MS. RIES: And we can use an unsigned
7 one if we need to.

13:17 8 MR. HARPER: Correct.

9 CHRISTI LYNN SIMMONS,

10 being first duly sworn, testified as follows:

13:18 12 BY MS. RIES:

13:18 13 Q. Would you state your full name for the
14 record, please.

13:18 15 A. Christi Lynn Simmons.

13:18 16 Q. And have you ever had your deposition
17 taken before, Ms. Simmons?

13:18 18 A. No.

13:18 19 Q. Let me just run through some basic ground
20 rules, then, so we can be sure we understand what
21 we're doing. The first one is if you need to take a
22 break at any point — I'm sure your attorney has
23 told you you have that right — let us know and we
24 can take a break.

25 The court reporter is taking down

5

1 everything you say and everything I say as well as
2 whatever anybody else says in the room, so it's
3 important that we use words when we're
4 communicating.

5 Shaking our heads and saying uh-huh
6 and huh-uh are going to make a very confusing
7 record, so we need to be sure to use words when
8 we're answering the questions. Okay?

13:18 9 A. Okay.

13:18 10 Q. If you don't understand what I'm asking
11 you, if you'll let me know, I'll try to rephrase the
12 question or clarify it in some way to help you,
13 because it's important, I think, to both of us, when
14 we get to the end, that I know you've answered the

15 questions I was asking and that you know you've

16 understood the questions and answered the questions

17 I was asking. Okay?

13:19 18 A. Okay.

13:19 19 Q. I realize you already did this for the

20 court reporter, but if you could give me your

21 address, please.

13:19 22 A. (Deleted for reasons of privacy).

13:19 23 Q. (Deleted for reasons of privacy)?

13:19 24 A. Uh-huh.

13:19 25 Q. And your phone number?

6

13:19 1 A. (Deleted for reasons of privacy).

13:21 2 Q. Are you employed right now, Ms. Simmons?

13:21 3 A. Yes.

13:21 4 Q. Where at?

13:21 5 A. Several places. I'm an independent

6 contractor for several health clubs.

13:21 7 Q. What health clubs?

13:21 8 A. Signature Athletic Club.

13:21 9 Q. Where is that at?

13:21 10 A. Preston and Alexis in Dallas.

13:21 11 Q. A-L-E-X-I-S, Alexis?

13:21 12 A. Uh-huh.

13:21 13 Q. Okay. Where else?

13:21 14 A. Cooper Fitness Center.

13:22 15 Q. Where is that at?

13:22 16 A. Preston Road in Dallas.

13:22 17 Q. Anywhere else?

13:22 18 A. Fitness Factory.

13:22 19 Q. Where is that?

13:22 20 A. Plano. Park — I get confused. Park,
21 Parker. Park and Coit.

13:22 22 Q. Anyplace else?

13:22 23 A. No. Through Cooper, at Pizza Hut. It's
24 through Cooper, so Cooper would be the — Cooper
25 supplies instructors for the corporate fitness

7

1 center for Pizza Hut, so I guess it would just be
2 Cooper.

13:22 3 Q. All right.

13:22 4 A. And those are where I'm independent
5 contractor. I also work at Richardson Bike Mart.

13:22 6 Q. And that's at Campbell and Coit?

13:22 7 A. Yes.

13:22 8 Q. Okay. Are you employed anywhere else?

13:22 9 A. Presently I'm working at a speed-
10 development camp through the Athlete's Course. It's
11 a seven-week camp, so I guess it's temporary.

13:22 12 Q. Speed-development camp through what?

13:22 13 A. The Athlete's Course.

13:22 14 Q. Where is that at?

13:22 15 A. Dallas. I'm not sure where the
16 headquarters are.

13:22 17 Q. Any other employment?

13:22 18 A. No.

13:22 19 Q. How long have you been working as an
20 independent contractor at different athletic clubs?

13:22 21 A. For approximately six — going on seven
22 years.

13:22 23 Q. Has it always been in the Dallas area?

13:22 24 A. Yes.

13:22 25 Q. And has it always been for the same clubs

8

1 or has that changed over the years?

13:22 2 A. Changed over the years.

13:22 3 Q. How long have you been an independent

4 contractor for these fitness clubs that you told me

5 about: Signature, Cooper, and Fitness Factory?

13:23 6 A. Approximately two years.

13:23 7 Q. When you say an independent contractor, do

8 you teach fitness courses?

13:23 9 A. Yes.

13:23 10 Q. How many hours a week do you work as an

11 independent contractor for the fitness clubs?

13:23 12 A. That's kind of changed over the years.

13 Presently five to six hours a week. Excuse me. Six

14 to seven hours a week.

13:23 15 Q. For all three of them together?

13:23 16 A. Yes. Because of the camp I'm working

17 right now, my load of classes I'm teaching has gone

18 down, just for the seven weeks I'm working at the

19 camps, so generally it's eight to 10 hours a week

20 combined. Presently it's five to seven hours.

13:24 21 Q. And how many hours a week do you work at

22 Richardson Bike Mart?

13:24 23 A. 25.

13:24 24 Q. How long have you worked at Richardson

25 Bike Mart?

- 13:24 1 A. Approximately two months. I started in
2 May.
- 13:24 3 Q. What's your job there?
- 13:24 4 A. Sales.
- 13:24 5 Q. Is there a particular area of sales or is
6 it —
- 13:24 7 A. Yes. Soft goods.
- 13:24 8 Q. Sorry?
- 13:24 9 A. Soft goods: Clothing, shoes, foods, all
10 the — there's, like, software equipment for cycling
11 and hardware equipment. I only do the software
12 equipment.
- 13:25 13 Q. What is it you're doing with speed-
14 development camp?
- 13:25 15 A. I'm a coach.
- 13:25 16 Q. In bicycling or something else?
- 13:25 17 A. It's all sports. It's basically junior
18 high and high school athletes from all over the
19 Metroplex. There's several camps going on
20 simultaneously. I'm at one location and it's for
21 all sports. We just do a general training.
- 13:25 22 Q. Conditioning?
- 13:25 23 A. Conditioning program to enhance their
24 speed and agility.
- 13:25 25 Q. Where is it that you're acting as a coach

13:25 2 A. Trinity Christian Academy.

13:26 3 Q. You're aware that in this lawsuit that

4 we're here for your deposition on, you've been

5 garnished through that lawsuit, correct?

13:26 6 A. Yes.

13:26 7 Q. Do you have any property belonging to Nick

8 Chenowth in your possession?

13:26 9 A. No.

13:26 10 Q. Have you ever had any property belonging

11 to Nick Chenowth in your possession?

13:26 12 A. No.

13:26 13 Q. What property belonging to Nick Chenowth

14 are you aware of within the state of Texas?

13:30 15 MR. HARPER: Objection: Form.

13:30 16 Q. Are you aware of any property belonging to

17 Nick Chenowth that's within the state of Texas?

13:30 18 A. What do you mean?

13:30 19 Q. Are you aware of any property, real or

20 personal, that belongs to Nick Chenowth or which he

21 claims to own that's located within the state of

22 Texas?

13:30 23 A. Yes.

13:30 24 Q. What?

13:30 25 MR. HARPER: Objection: Form.

11

1 You can go ahead and answer. My

2 objection does not —

13:30 3 Q. What property are you aware of?

13:30 4 A. House we live in.

13:30 5 Q. On Chalfont?

13:30 6 A. Yes.

13:30 7 Q. Okay.

13:30 8 A. Bicycles, clothing, car, furniture,
9 motorcycle. I can't recall anything else at this
10 time.

13:30 11 Q. Other than the house on Chalfont, are you
12 aware of any other real property that he owns
13 anywhere?

13:30 14 A. No.

13:30 15 Q. What bicycles is it that you're aware of
16 that Mr. Chenoweth either owns or claims to own?

13:30 17 A. Just several Corima bikes that were made
18 specifically for him.

13:30 19 Q. How many?

13:30 20 A. I'm not sure how many.

13:30 21 Q. How many does he have in his possession
22 that you are aware of?

13:30 23 A. Three.

13:30 24 Q. Are they all track bikes?

13:30 25 A. Two are.

12

13:30 1 Q. And one is a road bike?

13:30 2 A. Yes. Let me clarify. One of the track
3 bikes he gave to me, so I consider it mine. One of
4 them's his and the road bike is his.

13:30 5 Q. When did he give it to you, the Corima
6 track bike?

13:30 7 A. In October.

13:30 8 Q. Of what year?

13:30 9 A. '98.

13:30 10 Q. Any other bicycles or bicycling equipment
11 that you're aware that Mr. Chenowth owns or claims
12 to own?

13:30 13 A. No.

13:30 14 Q. By clothes, I assume you mean business and
15 casual clothes. Correct?

13:30 16 A. Yes.

13:30 17 Q. Are there also any kind of specialized
18 bicycling clothing that you're aware of that he owns
19 or claims to own?

13:30 20 A. What do you mean by specialized?

13:30 21 Q. Either made especially for him or which
22 indicates that it's Team EDS clothing.

13:30 23 A. No.

13:31 24 Q. What car is it that Mr. Chenowth owns or
25 claims to own?

13

13:31 1 A. Corvette.

13:31 2 Q. '98 Corvette?

13:31 3 A. Yes.

13:31 4 Q. Can you describe it for me, please.

13:31 5 A. It's a black '98 Corvette.

13:31 6 Q. By furniture, do you mean the furniture in
7 Mr. Chenowth's home on Chalfont?

13:31 8 A. Yes.

13:31 9 Q. Is there any other furniture that you're
10 aware of?

13:31 11 A. No.

13:31 12 Q. What motorcycle is it that you're
13 referring to?

13:31 14 A. A Ducati.
13:31 15 Q. Where is that located?
13:31 16 A. Al Lamb's Honda.
13:31 17 Q. Do you know why it's at Al Lamb's Honda?
13:32 18 A. Yes.
13:32 19 Q. Why?
13:32 20 A. Because he was going to sell it. He was
21 trying to sell it.
13:32 22 Q. When did he begin trying to sell it?
13:32 23 A. Back in — I'm not for sure exactly.
13:32 24 Q. Approximately.
13:32 25 A. Approximately early March. Sometime in

14

1 March. I'm guessing. Approximately.
13:32 2 Q. When was the last conversation you had
3 with Brett Hydrick?
13:33 4 A. One day out at the track about a month
5 ago.
13:33 6 Q. What was that conversation about?
13:33 7 A. I was about to — he was out at the track
8 and I was about to get on the track, and I asked him
9 to check my bike to make sure my gears were on
10 correctly, my chain was loose enough or tight
11 enough.
13:33 12 Q. Did he do so?
13:33 13 A. Yes.
13:33 14 Q. Anything else in that conversation?
13:33 15 A. Nope.
13:33 16 Q. I'm sorry?
13:33 17 A. No.

13:33 18 Q. Conversation before that with Mr. Brett

19 Hydrick?

13:33 20 A. On Monday — I believe it was the 26th of

21 April.

13:33 22 Q. Where did that conversation occur?

13:34 23 A. At Texas Racing Works.

13:34 24 Q. That's just off of Belt Line in

25 Richardson?

15

13:34 1 A. Yes.

13:34 2 Q. Was anyone else a party to that

3 conversation or hear that conversation?

13:34 4 A. No.

13:34 5 Q. Did anyone make a tape recording of that

6 conversation?

13:34 7 A. No.

13:34 8 Q. You did not tape-record it?

13:34 9 A. No.

13:34 10 Q. Do you know whether Mr. Hydrick tape-

11 recorded it?

13:34 12 A. No.

13:34 13 Q. So you don't know one way or another?

13:34 14 A. I don't know whether he did. I did not.

13:34 15 Q. When did you arrive at Texas Racing Works

16 for that conversation on April 26th?

13:34 17 A. Around 10 a.m., approximately.

13:34 18 Q. How did you get there?

13:35 19 A. I drove.

13:35 20 Q. In?

13:35 21 A. A van.

13:35 22 Q. What van?
13:35 23 A. My parents'.
13:35 24 Q. What was your purpose in going to Texas
25 Racing Works that day?

16

13:35 1 A. To pick up the tire — I mean a wheel that
2 the spoke was broken on and to check on some aero
3 bars that I'd asked him to order for me.

13:36 4 Q. I'm sorry. Some aero bars?

13:36 5 A. Yes, some equipment for a bicycle.

13:36 6 Q. How long did this conversation on April 26
7 last?

13:36 8 A. I'd say approximately 15 to 20 minutes.

13:36 9 Q. Did it all take place in the offices of
10 Texas Racing Works?

13:36 11 A. No.

13:36 12 Q. Where else did it occur?

13:36 13 A. Just out in the parking lot.

13:36 14 Q. Did part of it occur inside the building
15 and part of it in the parking lot?

13:36 16 A. Yes. We also walked across the street to
17 get some coffee and back on the parking lot.

13:36 18 Q. And the entire thing — including the time
19 you walked across the street, the whole thing lasted
20 15 to 20 minutes?

13:36 21 A. Yes.

13:36 22 Q. What place was it that you went to to get
23 the coffee?

13:37 24 A. I don't remember. It was just a coffee
25 shop real close to Texas Racing Works. I didn't pay

1 attention to what it was called.

13:37 2 Q. Is it directly across the street from

3 Texas Racing Works?

13:37 4 A. Behind — Texas Racing Works faces Polk

5 Street — I think it's Polk Street — and it was

6 behind, kind of across, so — not directly across

7 the front of the building but the side — back of

8 the building.

13:37 9 Q. Had Mr. Hydrick fixed the wheel with the

10 broken spoke?

13:37 11 A. No.

13:37 12 Q. Did you pick it up from him?

13:37 13 A. No.

13:37 14 Q. Why not?

13:37 15 A. It wasn't fixed.

13:37 16 Q. When had you given it to him to fix?

13:38 17 A. It got broken in a race and I sent it with

18 him, and so it was like two weeks, because he

19 ordered the spoke and they sent him the wrong spoke

20 and he was trying to get another spoke, appropriate

21 spoke.

13:38 22 Q. Did you pick up the aero bars that you had

23 asked him to order for you?

13:38 24 A. No. He had not ordered them yet.

13:38 25 Q. Did you call Mr. Hydrick before you drove

1 out there to check on these items?

13:38 2 A. Yes. I called to see if he was going to
3 be there.

13:38 4 Q. Did you ask him whether these items were
5 ready, in your phone conversation?

13:39 6 A. I don't recall. I just called to see if
7 he was there — going to be there.

13:39 8 Q. Why wouldn't you have asked him if they
9 were going to be ready in a phone conversation
10 before you drove out to his shop to check on them?

13:39 11 A. Because I wanted to make sure that he was
12 ordering the aero bars for me, and if he hadn't
13 already, I wanted to make sure he was ordering them,
14 ordering the right thing, and he said that the
15 spokes he could just go up to somewhere else and get
16 for me.

13:43 17 Q. Did you look at anything about the aero
18 bars while you were at his shop, look at a book or
19 look at some samples or something to pick one out?

13:43 20 A. No.

13:43 21 Q. So what was it you had to do in person to
22 make sure he was ordering the correct bars for you?

13:43 23 MR. HARPER: Objection: Form.

13:43 24 A. What do you mean?

13:43 25 Q. What was it that you had to be at his shop

1 in person to do in order to check on these repairs
2 and this equipment that you were asking him to order
3 for you?

13:43 4 A. Because I had asked him several times to

5 get these aero bars. He kept getting confused with
6 what kind of aero bars I wanted, and I wanted to
7 establish to him — explain to him what kind of aero
8 bars that I wanted him to get.

9 He was thinking track aero bars; I
10 wanted temporary aero bars, plus he said he could
11 get the spoke for me from somewhere else.

13:43 12 Q. He told you that when you got to his shop
13 in person or did he tell you that over the phone?

13:43 14 A. I don't remember what was said at the shop
15 and on the phone. I mainly called to see if he was
16 going to be there, because I wanted to talk to him.

13:43 17 Q. About what?

13:43 18 A. I just told you. I wanted to talk about
19 my equipment, and also I wanted to let him know that
20 Nick had been fired, because I didn't know if he was
21 aware of that.

13:43 22 Q. Did anybody ask you to let him know that
23 Nick had been fired?

13:43 24 A. No.

13:43 25 Q. Then why did you want to let him know?

20

13:43 1 A. I just did.

13:43 2 Q. No reason?

13:43 3 A. I'd had a conversation with Nick after
4 he'd been fired, and he said he wished he could talk
5 to some of the people involved so that they wouldn't
6 think they were getting in trouble or had done
7 anything wrong.

8 And I just didn't know if Brett had

9 been made aware, because he was supposed to meet us
10 out at the track for workouts, and I wanted to make
11 sure he was aware of that and that he wasn't going
12 to be meeting us out at the track.

13:44 13 Q. Why didn't you do that over the phone?

13:44 14 A. Because I wanted to talk to him in person.

13:44 15 Q. Why?

13:44 16 A. Because I wanted to.

13:44 17 Q. Were you leaving from your home that

18 morning to go meet with Brett Hydrick?

13:44 19 A. Yes.

13:44 20 Q. How far is it from your home to Brett's

21 place of business?

13:44 22 A. About 10 minutes, approximately.

13:44 23 Q. Where did you go after your meeting with

24 Brett?

13:44 25 A. To work.

21

13:44 1 Q. At what location?

13:44 2 A. I think it was Signature Athletic Club.

13:44 3 Q. Signature Athletic Club is in Dallas,

4 correct?

13:44 5 A. Yes.

13:44 6 Q. Inside 635?

13:44 7 A. Do what?

13:44 8 Q. Inside Loop 635?

13:44 9 A. It's off Preston Road.

13:44 10 Q. Preston runs quite a ways. What I'm

11 trying to find out is —

13:44 12 A. It's in Dallas.

13:44 13 Q. Inside Loop 635 —
13:44 14 A. The Addison —
13:44 15 Q. — south of Belt Line?
13:44 16 A. Yes.
13:44 17 Q. And Chalfont Court, where is it located at
18 in Dallas? Your house.
13:44 19 A. Just south of Keller Springs.
13:44 20 Q. And east-west, what's it close to?
13:44 21 A. It's in between Keller Springs and
22 Arapaho.
13:44 23 Q. Is it east or west of Preston?
13:44 24 A. It's on Preston, just off Preston.
13:44 25 Q. So rather than talk to Mr. Brett Hydrick

22

1 over the phone about these issues that morning, you
2 drove out of your way from your house that's on
3 Preston over to I-75 and Belt Line and then back
4 over to Preston to go to work?
13:44 5 A. Yes, I did.
13:44 6 Q. What did Nick tell you he wished he could
7 tell these people?
13:44 8 A. He didn't tell me.
13:45 9 Q. I'm sorry. Maybe I misunderstood your
10 earlier answer. You said that you had a
11 conversation with Nick in which he had expressed to
12 you that he wished he could talk to some of the
13 people involved. Do you remember saying that a few
14 minutes ago?
13:45 15 MR. HARPER: Objection: Form.
13:45 16 A. Yes, I do.

13:45 17 Q. Can you describe that conversation to me
18 more fully, please?

13:45 19 A. I don't know what he wanted to say to them
20 specifically. He expressed that he wanted to talk
21 to some of these people. He didn't — I don't know
22 what he wanted to say.

13:45 23 Q. When was this conversation?

13:45 24 A. The night he got fired: April 23rd.

13:45 25 Q. What people had he said he wanted to talk

23

1 to?

13:45 2 A. He didn't specify anyone specifically.

13:45 3 Q. He didn't say Brett Hydrick?

13:45 4 A. Not that I recall specifically. I don't
5 remember every word that was said that night.

13:46 6 Q. So why did you connect the conversation,
7 then, with going to talk to Brett Hydrick?

13:46 8 MR. HARPER: Objection: Form.

13:46 9 A. As I said before, we were supposed to meet
10 Brett out at the track. He was our mechanic. I
11 wanted to make sure he knew that Nick had been fired
12 so that he wouldn't come out and meet us at the
13 track. That's one of the reasons.

13:46 14 Q. Earlier in your testimony when you were
15 describing one of the reasons why you met — went to
16 speak with Brett that day, you referenced this
17 conversation that you had with Nick where he said he
18 wished he could talk to some people, and I'm
19 wondering why you connected that conversation with
20 Nick to going to talk to Brett Hydrick.

13:46 21 A. I just told you —

13:46 22 MR. HARPER: Objection to form.

23 Let me — if I have an objection, you

24 have to let me —

13:47 25 THE WITNESS: I'm sorry.

24

13:47 1 MR. HARPER: Objection: Form. If

2 you need to, you can reask your question.

3 Or you can have her read it back to

4 you.

13:47 5 THE WITNESS: Okay.

13:47 6 MR. HARPER: Do you remember what the

7 question is?

13:47 8 THE WITNESS: No.

13:47 9 MS. RIES: Could you read it back,

10 please.

11 (Record read)

13:47 12 Q. Can you tell me why you connected those

13 two?

13:47 14 MR. HARPER: Objection: Form.

13:47 15 A. I didn't connect any two. I went to try

16 to get my equipment, and also, I wanted to make him

17 aware that Nick had been fired. One of the reasons

18 why I wanted to make him aware is because he was

19 going out to the track to meet us for a workout and

20 I was hoping to get this equipment that I needed

21 resolved so that I could have it for workouts.

13:48 22 Q. When was it that Mr. Hydrick was going to

23 be meeting you at the track?

13:48 24 A. I don't remember at this time if it was

25 that day or the next day, but it was sometime that

25

1 week.

13:48 2 Q. When you first got to the shop, did you go

3 inside?

13:48 4 A. Yes.

13:48 5 Q. Who did you talk to first?

13:48 6 A. Brett and Tim, his employee.

13:48 7 Q. What did you say to them?

13:49 8 A. Hello.

13:49 9 Q. Did they say anything in response?

13:49 10 A. Hello.

13:49 11 Q. Can you describe the conversation to me in

12 detail from that point forward, please.

13:49 13 MR. HARPER: Objection: Form.

13:49 14 A. The whole conversation?

13:49 15 Q. The entire conversation where Brett and

16 Tim were both present.

13:49 17 MR. HARPER: Objection: Form.

13:49 18 A. I just walked in and said hello and I

19 asked Brett if he had a few minutes. I don't

20 remember exactly the detail of the conversation. I

21 started talking to him about my equipment, and then

22 I asked him if he could walk outside with me and I

23 asked him if he was aware that Nick had been fired

24 and he said no.

13:50 25 Q. And then?

26

13:50 1 MR. HARPER: Objection: Form.

13:50 2 A. And then what?

13:50 3 Q. Can you continue to describe the
4 conversation, please.

13:50 5 A. I said, you may or may not be aware that
6 Nick has been fired. He said he was not aware. He
7 might have asked me why then, at that point, and I
8 tried to explain in general some of the reasons.

13:50 9 Q. Which were what? I need you to tell me
10 what you said to him and what he said to you, so
11 what did you tell him?

13:50 12 A. I don't remember exactly every word.

13:50 13 MR. HARPER: Objection: Form.

13:50 14 Q. Tell me, as best you can recall, how you
15 answered his question about why Nick had been fired.

13:51 16 A. He was accused of mismanagement of funds;
17 he was talked to about the way Marty Nothstein was
18 paid and the receipts that were generated through
19 Texas Racing Works; he was talked to about the way
20 he accrued money from Frisco for some bleachers and
21 money that was spent on uniforms for Team EDS. The
22 latter of the two were reasons he was given for
23 being fired.

13:52 24 Q. This is what you told Brett Hydrick?

13:52 25 A. Yes.

13:52 1 Q. What else did you and Brett discuss? What
2 happened next in your conversation with Brett
3 Hydrick?

13:52 4 A. He was just in disbelief about him being
5 fired and —

13:52 6 Q. Why do you say that?

13:52 7 A. — he was just shocked.

13:52 8 Q. Why do you say that?

13:52 9 A. He said he was shocked. He said he was —
10 couldn't believe it or something to that effect.

13:53 11 Q. What else?

13:53 12 MR. HARPER: Objection: Form.

13:53 13 Q. What else did you and Mr. Hydrick discuss
14 in your conversation? Please tell me the next
15 things that you and Mr. Hydrick discussed in your
16 conversation that day.

13:53 17 A. I don't remember the exact order we
18 discussed everything in, and again, I don't
19 remember, word for word, everything. I just tried
20 to tell him in general that Nick had been fired and
21 that Nick was really upset; I was really upset. He
22 had been treated very hostilely and belligerently
23 and basically been humiliated.

13:54 24 Q. I'm sorry. What?

13:54 25 A. Basically been humiliated.

28

13:54 1 Q. This is what you told Brett Hydrick?

13:54 2 A. Yes.

13:54 3 Q. I didn't mean to speak over you. I'm
4 sorry. What were you saying when I said, "This is
5 what you told Brett Hydrick"?

13:54 6 A. I said basically he had been humiliated:
7 Escorted out of the building, not been allowed to

8 get any of his personal items, had to clean his van

9 out driving down the Tollway.

13:54 10 Q. You told all of this to Brett Hydrick?

13:55 11 A. Yes.

13:55 12 Q. Did you and Brett Hydrick discuss anything
13 else in this conversation?

13:55 14 A. He had some questions about what they
15 talked about, how Marty was paid, and he said to me
16 that he was just doing what he was told, that he
17 thought it was business as usual and he thought it
18 was all approved, and I said yes, it was; it was
19 business as usual, that it was all approved.

13:57 20 Q. What else did you and Mr. Hydrick discuss
21 that day in this conversation?

13:57 22 A. That's basically it. That's about all I
23 can recall right now.

13:57 24 Q. At what point is it that you walked over
25 to the coffee shop?

29

13:57 1 A. We were just walking outside and he wanted
2 to get some coffee and he asked if I'd walk over
3 with him, and I said sure. I don't know at what
4 point in time.

13:57 5 Q. Did you try to give Mr. Hydrick any pieces
6 of paper during this conversation?

13:57 7 A. Yes.

13:57 8 Q. What piece of paper was that?

13:57 9 A. Title to a trailer.

13:57 10 Q. How come you didn't tell me about this
11 when I asked you what else you discussed?

13:57 12 MR. HARPER: Objection: Form.

13:57 13 A. Well, I didn't remember. I said that's

14 all I can recall at this time.

13:57 15 Q. But you did discuss title to a trailer?

13:57 16 A. I had had it in my purse to give to him

17 for several days and I was just supposed to give it

18 to him, and I realized I had it in my purse and I

19 tried to give it to him at that time.

13:57 20 Q. What did you say to him about this title?

13:57 21 A. Just told him that Nick had wanted me to

22 give it to him and this is the first time I'd seen

23 him to give it to him.

13:57 24 Q. Did you tell him why Nick wanted you to

25 give it to him?

30

13:57 1 A. It was his.

13:57 2 Q. Didn't you, in fact, say it was because of

3 some taxes —

13:57 4 A. No.

13:57 5 Q. — that he was owed money for taxes and

6 Nick wanted him to have the title?

13:58 7 A. No, I didn't say anything about taxes.

13:58 8 Q. Did you know anything about taxes?

13:58 9 A. No.

13:58 10 Q. When did Nick give you the title to give

11 to Brett?

13:58 12 A. Several days before.

13:58 13 Q. When?

13:58 14 A. Sometime during the week prior to the

15 23rd.

13:58 16 Q. How do you know it was prior to the 23rd?
13:58 17 A. Because he thought that I would see him
18 out at the track, and it ended up I didn't before
19 then, before the date I gave it to him.
13:59 20 Q. Did you actually give him the title?
13:59 21 A. No.
13:59 22 Q. Why did Nick say he wanted you to give the
23 title to Brett Hydrick?
13:59 24 A. I don't know. He just gave it to me and
25 asked me to give it to him.

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13:59 1 Q. He didn't give you any reason?
13:59 2 A. Other than that it was his.
13:59 3 Q. So Nick Chenoweth told you that the trailer
4 belonged to Brett Hydrick?
13:59 5 A. Texas Racing Works.
13:59 6 Q. Nick Chenoweth told you that the trailer
7 belonged to Texas Racing Works?
13:59 8 A. Yes.
13:59 9 Q. What did Brett Hydrick tell you when you
10 tried to give him the title?
13:59 11 A. That it wouldn't do him any good because
12 it wasn't in his name.
13:59 13 Q. Anything else about the title?
13:59 14 A. No, not that I recall.
13:59 15 Q. Anything else that you and Brett Hydrick
16 discussed that day?
14:00 17 A. Not that I recall at this time.
14:00 18 Q. Is there something you could look at that
19 would refresh your memory?

14:00 20 A. What do you mean?
14:00 21 Q. Is there something that you could look at
22 that would help you to remember and be sure that
23 you've told me about everything that was discussed
24 that day between you and Brett Hydrick?
14:00 25 MR. HARPER: Objection: Form.

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14:00 1 A. Not that I know of. I don't know what I
2 might look at.
14:00 3 Q. Did you make any notes concerning the
4 conversation, ever?
14:00 5 A. No, I did not.
14:00 6 Q. Did you tell anybody else about the
7 conversation?
14:00 8 MR. HARPER: Objection: Form. Also
9 object to the extent it calls for information
10 protected by attorney-client privilege.
11 I instruct the witness not to answer
12 as to any conversations you had with your attorney,
13 but as to any other conversations, feel free to
14 answer.
14:01 15 A. Can you repeat the question?
14:01 16 Q. Sure. Other than a conversation with your
17 attorney, have you told anyone else about this
18 conversation you had with Brett Hydrick?
14:01 19 A. Yes.
14:01 20 Q. Who?
14:01 21 A. Nick.
14:01 22 Q. When was that?
14:01 23 A. That day after I got home or sometime on

24 that Monday when I got home.

14:01 25 Q. Did you talk to Brett Hydrick about

33

1 invoices or documents that he had in his possession?

14:01 2 A. No.

14:02 3 Q. Did you and he discuss the fact that he

4 had documents or invoices relating to payments to

5 Marty Nothstein?

14:02 6 A. No. The only thing I said was, when Nick

7 was fired, that there was conversation about the way

8 he paid Marty Nothstein through invoices through

9 Texas Racing Works. That was the only mention of

10 documents.

14:02 11 Q. What did you tell Nick about this

12 conversation with Brett Hydrick?

14:02 13 A. The same thing I just told you.

14:02 14 Q. You told him in that much detail?

14:03 15 A. Basically, yes.

14:03 16 Q. Did you tell him that Brett had said that

17 if everything was on the up and up, as he had always

18 been told, there wouldn't be any reason for him to

19 be destroying documents?

14:03 20 A. Repeat the question.

14:03 21 Q. Did you tell Nick that Brett had told you

22 that if everything was on the up and up, as he had

23 been repeatedly told by Nick Chenoweth, that there

24 wouldn't be any reason why he would need to destroy

25 documents?

14:03 1 MR. HARPER: Objection: Form.

14:03 2 A. No, I did not say that, because Brett
3 didn't say that to me.

14:03 4 Q. He told you that he had been told
5 repeatedly that everything was on the up and up,
6 right?

14:03 7 MR. HARPER: Objection: Form.

14:03 8 Q. Did Brett tell you in your conversation
9 with him that morning that he had been told
10 repeatedly by Nick Chenoweth that this arrangement
11 concerning the Marty Nothstein payments was
12 aboveboard, business as usual, on the up and up?

14:04 13 A. Brett said, I thought it was business as
14 usual; I thought it was all approved. And I said,
15 yes, it was business as usual and it was approved.

14:04 16 Q. Why did you say that?

14:04 17 A. Because that's what I was told.

14:04 18 Q. By who?

14:04 19 A. Nick.

14:04 20 Q. Anybody else ever tell you that?

14:04 21 A. What do you mean anybody else?

14:04 22 Q. Did anyone else ever tell you that his
23 dealings with Texas Racing Works or Brett Hydrick
24 were business as usual and/or approved?

14:04 25 MR. HARPER: Objection: Form.

14:04 1 A. During what time frame?

14:04 2 Q. Ever.

14:05 3 A. Not that I recall.

14:05 4 Q. When did Nick tell that you this was all
5 business as usual and approved?

14:08 6 A. On April 23rd when he came in and told me
7 he'd been fired and what he'd been accused of. He
8 explained the way he did business.

14:08 9 Q. What did he tell you?

14:08 10 MR. HARPER: Objection: Form.

14:08 11 Q. What did he tell you was the way he did
12 business?

14:08 13 A. Casual business relationship between
14 vendors.

14:08 15 Q. Anything else?

14:08 16 A. Mostly verbal agreements.

14:08 17 Q. Did he tell you anything else about the
18 way he did business, he being Nick Chenowth?

14:08 19 A. Most of the vendors wanted cash; he could
20 get better prices on equipment; he was trying to
21 save the company money by getting better prices, so
22 he paid cash.

14:08 23 Q. Anything else he told you about the way he
24 did business?

14:08 25 A. He said that he would say Cycling wanted

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1 the amount of money that Marty was paid to not be
2 public knowledge and it would put them in a bind.
3 They asked him to handle the situation and have him
4 paid confidentially.

14:08 5 Q. Anything else?

14:08 6 A. He said that it was approved by his boss

7 to pay Marty through these false receipts so that it
8 wasn't public knowledge how much he was making,
9 because salaries were confidential.

14:08 10 Q. Anything else Mr. Chenoweth told you about
11 the way he did business?

14:08 12 MR. HARPER: Objection: Form.

14:08 13 A. I can't remember everything word for word.
14 He just explained to me the reasons that were given
15 for him being fired. He tried to explain what he
16 did and that it was all approved. I can't remember
17 all the details word for word.

14:09 18 Q. Did he identify who it was that had
19 approved all this?

14:09 20 A. Upper management.

14:09 21 Q. Did he name any names?

14:09 22 A. Les Alberthal, Vicki Yacovany, John
23 Harris.

14:09 24 Q. Anybody else?

14:09 25 A. That approved it?

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14:09 1 Q. That he identified as having approved any
2 of his business methods.

14:09 3 A. Those are the names that I can recall at
4 this time. He did say that the people within his
5 Global Sports organization knew of the process and
6 how it was done and basically were all involved in
7 some way or another. It was common knowledge how it
8 was done.

14:10 9 Q. Did he name any names there?

14:10 10 A. His secretary, D'Rinda Taylor; Steve

11 Walsh; Jim Travis. Those are the names that I can

12 recall at this time.

14:10 13 Q. Those are the names he told you that you

14 can recall?

14:10 15 A. Yes.

14:10 16 Q. What exactly was it that he told you had

17 been approved by his upper management?

14:10 18 MR. HARPER: Objection: Form.

14:10 19 A. Could you repeat the question?

14:10 20 Q. Yes. In this conversation on the 23rd,

21 what exactly was it that Nick Chenoweth told you had

22 been approved by his upper management?

14:11 23 MR. HARPER: Objection: Form.

14:11 24 A. The way he had done business for the last

25 10 plus years.

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14:11 1 Q. Everything about it?

14:11 2 A. Yes.

14:11 3 Q. That's what he told you?

14:11 4 A. Maybe not in those exact words, but that's

5 the general gist of the conversation that I got from

6 it.

14:11 7 Q. Who were the vendors that he needed to pay

8 cash to to get the better prices on equipment?

14:11 9 MR. HARPER: Objection: Form.

14:11 10 A. I don't know.

14:11 11 MS. RIES: Pardon me?

14:11 12 MR. HARPER: I said objection: Form.

14:11 13 A. I don't know.

14:11 14 Q. He didn't tell you who those vendors were?

14:11 15 A. No.

14:11 16 Q. Are you aware of what vendors Mr. Chenoweth
17 dealt with on a regular basis?

14:11 18 A. There were several.

14:11 19 Q. And who were they?

14:11 20 A. Well, he didn't discuss that with me.

14:12 21 Q. Did you know who the vendors were that Mr.
22 Chenoweth dealt with on a regular basis with regards
23 to Team EDS?

14:12 24 A. No.

14:12 25 Q. You didn't know, for instance, that he

39

1 dealt with Richardson Bike Mart in regard to Team
2 EDS?

14:12 3 A. I didn't know how he dealt with Richardson
4 Bike Mart. I didn't know any details of what he
5 did, and the only details that I did know I found
6 out after he got fired, and because of these writs
7 of garnishment, that's what made me aware of certain
8 specific vendors.

14:12 9 Q. Did you know that he dealt with Texas
10 Racing Works on behalf of Team EDS?

14:12 11 A. Yes.

14:12 12 Q. How did you pay Brett Hydrick for the work
13 he did on your bicycle?

14:12 14 A. When?

14:12 15 Q. At any time.

14:12 16 A. I didn't.

14:12 17 Q. He just did the work for free for you?

14:13 18 A. No.

14:13 19 Q. How did he get paid?
14:13 20 A. I don't know.
14:13 21 Q. You never worried about it?
14:13 22 A. No.
14:13 23 Q. Why is that?
14:13 24 A. I didn't have a lot of work done on my
25 bike, number one; number two, I didn't — I

40

1 didn't — I didn't pay him directly.
14:13 2 Q. How did you pay him?
14:13 3 A. I didn't.
14:13 4 Q. You say you didn't pay him directly. Did
5 you pay him indirectly?
14:13 6 A. No. I meant I didn't personally pay him
7 anything.
14:13 8 Q. Who did?
14:13 9 MR. HARPER: Objection: Form.
14:13 10 A. I don't know.
14:13 11 Q. Are you in the habit of walking into
12 places of business and purchasing things and not
13 finding out how the business is going to get paid
14 for the things that you're given?
14:14 15 MR. HARPER: Objection: Form.
14:14 16 A. I didn't ever walk into a shop and just
17 walk out with things or have services done without
18 paying for them.
14:14 19 Q. Did you have services done on your
20 bicycles by Brett Hydrick?
14:14 21 A. What do you mean by services?
14:14 22 Q. Any kind of services, like when he checked

23 the chain for you that day at the track.

14:14 24 A. There's usually no charge for that.

14:14 25 Q. So it's your understanding that every

41

1 service you ever received from Brett Hydrick is

2 commonly done at no charge to other bicycle riders?

14:14 3 A. There are some, yes.

14:14 4 Q. Are there some that you received that

5 would commonly require a payment for the services to

6 be done?

14:14 7 A. Yes, like my wheel that was broken. I

8 would have paid for it, but it never got fixed. The

9 aero bars I ordered I would pay for. They never got

10 ordered.

14:15 11 Q. Was there anything that you received from

12 Brett Hydrick, either in the way of services or

13 equipment, that would commonly have been paid for by

14 a bicycle rider but which you did not pay for?

14:15 15 MR. HARPER: Objection: Form.

14:15 16 A. Everything that Brett did he was paid for.

17 I didn't personally pay him.

14:15 18 MS. RIES: Object: Not responsive.

14:15 19 Q. Was there ever anything that you received

20 from Brett Hydrick or Texas Racing Works in the way

21 of services or equipment for you and/or your

22 bicycles, the bicycles which you claim to be yours,

23 for which you did not pay which would be commonly

24 paid for by a bicycle rider?

14:15 25 MR. HARPER: Objection: Form.

14:15 1 A. Can you repeat that, please? It was kind
2 of lengthy.

14:17 3 Q. Yes. Did you ever receive services or
4 equipment from Brett Hydrick or Texas Racing Works
5 of a sort that would normally be paid for by a
6 bicycle rider but you did not pay for it?

14:17 7 MR. HARPER: Objection: Form.

14:17 8 A. Again, I didn't pay for anything
9 personally. Things that were done were paid for. I
10 didn't pay for them myself.

14:17 11 MS. RIES: Objection: Nonresponsive.

14:17 12 Q. Did you ever receive goods or services
13 from Brett Hydrick or Texas Racing Works for which
14 you did not pay but which would commonly be paid for
15 by a bicycle rider?

14:18 16 A. Yes.

14:18 17 MR. HARPER: Objection: Form.

14:18 18 Q. What did you receive?

14:18 19 A. It was paid for, not by me.

14:18 20 Q. What did you receive?

14:18 21 A. I don't know specifically. I don't know
22 all the things that he did to my bike specifically,
23 so...

14:18 24 Q. Tell me anything that would fall into that
25 category.

14:18 1 MR. HARPER: Objection: Form.

14:18 2 A. Again, I don't know specifically all the
3 work that he did on it. I wasn't standing over him
4 watching him every time he touched my bike. An
5 example would be changing out the stem to a small
6 size to fit me.

14:18 7 Q. Did you pay for the stem?

14:18 8 A. I did not.

14:18 9 Q. Did you pay for the work in changing out
10 the stem?

14:18 11 A. No.

14:18 12 Q. Who did?

14:18 13 A. I don't know.

14:18 14 Q. Then how do you know it was paid?

14:18 15 A. I would assume — I'm not positive — that
16 it was Nick.

14:18 17 Q. Why do you think that?

14:18 18 A. Because he had the relationship with Brett
19 in doing work on the bikes. He took care of that.
20 I didn't ask him how he took care of things that
21 were done, equipment.
22 They had an agreement; they had a
23 relationship. If my bike needed something, Nick
24 took it to Brett; Brett took care of it. I thought
25 Nick paid for it.

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14:18 1 Q. And you also took it directly to Brett
2 sometimes, correct?

14:18 3 A. Yes.

14:19 4 Q. And you still thought Nick was going to
5 pay for that?

14:19 6 A. Yes. I was never told otherwise.

14:19 7 Q. Never. Not even now?

14:19 8 MR. HARPER: Objection: Form.

14:19 9 A. What do you mean?

14:19 10 Q. You don't know now who actually paid for

11 the work on your bicycle, or what you call your

12 bicycle?

14:19 13 A. No.

14:19 14 Q. Did you go back into the shop again at the

15 end of your conversation with Brett after he'd

16 gotten this coffee?

14:19 17 A. No.

14:19 18 Q. Did Tim hear any portion of your

19 conversation with Brett —

14:19 20 MR. HARPER: Objection.

14:19 21 Q. — concerning Nick or the Marty payments

22 or any of that?

14:19 23 MR. HARPER: Objection: Form.

14:19 24 A. No.

14:19 25 Q. How do you know he didn't?

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14:20 1 MR. HARPER: Objection: Form.

14:20 2 A. I don't think he did. He wasn't outside

3 with us.

14:20 4 Q. So that part of the conversation all took

5 place outside?

14:20 6 A. Yes.

14:20 7 Q. Why is that?

14:20 8 MR. HARPER: Objection: Form.

14:20 9 Q. Why did you ask Brett to go outside to

10 have that part of the conversation?

14:20 11 A. Because it was no one else's business. I

12 wanted to talk to Brett. I wasn't there to see Tim;

13 I was there to see Brett.

14:20 14 Q. Did you ask Brett not to tell Tim about

15 the conversation?

14:20 16 A. No. I just asked him if he would walk

17 outside with me.

14:20 18 Q. Any other reason why you asked him to walk

19 outside with you?

14:20 20 A. No.

14:20 21 Q. Did Tim see you try to give the title to

22 the trailer to Brett?

14:21 23 MR. HARPER: Objection: Form.

14:21 24 A. I don't know.

14:21 25 Q. As far as you know, did he see it?

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14:21 1 A. No.

14:21 2 Q. Did that part also —

14:21 3 A. As far as I know —

14:21 4 Q. I'm sorry?

14:21 5 A. — I didn't see him. We were outside. I

6 don't know.

14:21 7 Q. Why is it that you waited until you were

8 outside to try to give him the title to the trailer?

14:21 9 A. Because that's when I thought about it.

14:21 10 Q. Describe when you received this Corima

11 bicycle that you say is yours.

14:22 12 MR. HARPER: Objection: Form.

14:22 13 Q. You know the bicycle I'm referring to?

14:22 14 A. Yes.

14:22 15 Q. Describe when you received the bicycle,
16 please.

14:22 17 MR. HARPER: Objection: Form.

14:22 18 A. What do you mean describe?

14:22 19 Q. Who was present when you were, in your
20 opinion, given the bicycle?

14:22 21 A. I wasn't presented it: Here. I mean, we
22 went out to the track —

14:22 23 Q. Who is we?

14:22 24 A. Nick and Brett and I.

14:22 25 Q. You all went together out to the track?

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14:22 1 A. Yes.

14:22 2 Q. What did you ride in?

14:22 3 A. What?

14:22 4 Q. What did you ride in together out at the
5 track?

14:22 6 A. Nick and I drove out there together in his
7 EDS company van.

14:23 8 Q. Brett met you out there?

14:23 9 A. Yes.

14:23 10 Q. When was this? It was in October of '98?

14:23 11 A. Yes.

14:23 12 Q. Was there anyone else present when you
13 were given the bicycle?

14:25 14 A. Not that I recall. I think — I'm not
15 sure if it was that day. I think Skip Cutting was
16 out at the track at some time or another. I'm not
17 sure if was that day or another day, but...

14:25 18 Q. Was the bicycle with you in the van on the
19 way to the track?
14:25 20 A. No.
14:25 21 Q. It was at the track —
14:25 22 MR. HARPER: Objection: Form.
14:25 23 Q. At the track when you got there?
14:25 24 A. Yes.
14:25 25 Q. Where was it at the track?

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14:25 1 A. Down on the infield.
14:25 2 Q. Sitting out?
14:25 3 A. I don't remember.
14:25 4 Q. Had you ever used the bicycle before?
14:25 5 A. No.
14:25 6 Q. What did it look like?
14:25 7 A. It was a Corima track bike.
14:25 8 Q. How was it painted?
14:25 9 A. Purple.
14:25 10 Q. How was it given to you?
14:25 11 MR. HARPER: Objection: Form.
14:25 12 A. I got on it and started learning how to
13 ride on it. It wasn't a big presentation.
14:25 14 Q. So a bike is sitting at the track, nobody
15 says anything, you just go get on the bike and start
16 riding it?
14:25 17 MR. HARPER: Objection: Form.
14:25 18 A. I don't understand what you're...
14:25 19 Q. Did anybody say anything to you about the
20 bicycle before you went and got on it and started
21 riding?

14:25 22 A. I don't remember. It's been several
23 months ago. I trained for almost eight months so
24 that I could start racing on the track. Nick told
25 me that he was going to get me a track bike so that

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1 I could race, and when it was finally built up for
2 my specs, we went out and I got on it and I rode. I
3 learned how to ride on the track. It wasn't a
4 presentation in front of a bunch of people.

14:26 5 MR. HARPER: I don't know how close
6 we are to getting to a breaking point, but when
7 you're close —

14:26 8 MS. RIES: Okay. It won't be too
9 long.

14:26 10 MR. HARPER: That's all right.

14:26 11 Q. What did Nick say to you that made you
12 think you owned that bicycle?

14:26 13 A. When?

14:26 14 Q. Ever.

14:26 15 MR. HARPER: Objection: Form.

14:26 16 A. When he gave it to me.

14:26 17 Q. What did Nick Chenoweth say to you that
18 makes you think you owned that bicycle?

14:27 19 MR. HARPER: Objection: Form.

14:27 20 A. After he was fired and after EDS has been
21 trying to take the bicycles that were in our
22 possession away, he explained to me how the bicycles
23 were given to him.

14:27 24 Q. Tell me about that conversation, Nick
25 telling you about how the bicycles were given to

1 him.

14:27 2 A. His boss, Vicki Yacovany, gave them to

3 him.

14:27 4 Q. Gave what to him?

14:27 5 A. Several bicycles, which included

6 specifically a small frame for me to start using.

14:28 7 Q. When did Vicki Yacovany, according to Nick

8 Chenowth, give him these bicycles?

14:28 9 MR. HARPER: Objection: Form.

14:28 10 A. I don't know.

14:28 11 Q. He didn't tell you that?

14:28 12 A. If he did, I don't remember. I don't know

13 the exact date.

14:28 14 Q. When did you start dating Nick Chenowth?

14:28 15 A. Almost two years ago.

14:28 16 Q. So that would be June of '97?

14:28 17 A. It was actually August.

14:28 18 Q. When did you starting training to become a

19 track rider on bicycles?

14:28 20 A. Approximately March of '97, or —

21 approximately March — let's see. August,

22 September, October, November, December. March of

23 '98. I don't know. I'm not clear on my exact

24 dates — years.

14:29 25 Q. You had been training for eight months to

1 be a track cyclist at the time you first started
2 riding the purple bicycle?
14:29 3 A. I'm sorry. What?
14:29 4 Q. You had been training for eight months to
5 be a track cyclist at the time you first started
6 riding the purple bicycle?
14:29 7 A. Yes.
14:29 8 Q. And that was October of '98?
14:29 9 A. Yes.
14:29 10 Q. So it would have been February or March of
11 '98 that you started training?
14:29 12 A. Yes.
14:29 13 Q. Did Nick explain to you why Vicki Yacovany
14 had given him a bicycle with a frame so small that
15 he could not ride it?
14:30 16 A. During the conversation I had with him
17 about how the bikes were given to him?
14:30 18 Q. Or any time.
14:30 19 A. During that conversation he said he asked
20 specifically for a smaller frame for me.
14:30 21 Q. Did you ever hear this description of the
22 conversation with Vicki Yacovany giving these
23 bicycles to Nick Chenoweth before this lawsuit was
24 filed?
14:30 25 A. Sorry. Say that again.

52

14:30 1 Q. Had you ever heard the story about Vicki
2 Yacovany giving bicycles to Nick Chenoweth before
3 this lawsuit was filed?
14:31 4 A. Heard that particular story, no.

14:31 5 MS. RIES: We can take a break now.

14:31 6 MR. HARPER: Thanks.

7 (Recess taken 2:31-2:47)

14:47 8 Q. Is there something you'd like to correct?

14:47 9 A. Yes. I think I misunderstood the last

10 question when you asked me — can you repeat your

11 last question?

14:47 12 THE WITNESS: Or can you repeat it?

14:47 13 MS. RIES: Can you repeat it, please?

14 (Record read)

14:47 15 A. I thought you meant before he was fired,

16 so that would be yes to that question, because I did

17 hear — before the lawsuit but not until after he

18 was fired, so I just wanted to clarify that.

14:48 19 Q. You never heard this story about Vicki

20 Yacovany giving bicycles to Nick Chenoweth until

21 after he was fired on April 23rd, 1999?

14:48 22 A. Yes.

14:48 23 Q. Did Nick tell you that he had been given

24 all three of the Corima bicycles at the same time by

25 Vicki Yacovany?

53

14:48 1 A. He didn't tell me how many bicycles he was

2 given or when they were given — I mean when each

3 one was given. He was given several bicycles; he

4 didn't specify to me exactly — or I don't remember,

5 anyway — each bicycle and when it was given.

14:49 6 Q. Did he tell you why he was given bicycles?

14:49 7 A. Yes.

14:49 8 Q. What did he tell you?

14:49 9 A. Are we still talking about this particular

10 incidence when Vicki —

14:49 11 Q. We're talking about the conversation after

12 he was fired where Nick Chenoweth told you he had

13 been given bicycles.

14:49 14 A. He said that he was given these bicycles

15 in lieu of a bonus.

14:49 16 Q. Did he say when this occurred?

14:49 17 A. When what occurred?

14:49 18 Q. That he was given the bicycles in lieu of

19 a bonus.

14:50 20 MR. HARPER: Objection: Form.

14:50 21 A. Did he say when — I'm sorry. I'm not

22 quite sure I understand.

14:50 23 Q. Did he say when it was that he was given

24 the bicycles in lieu of a bonus?

14:50 25 A. I'm not sure exactly when it was. I don't

54

1 know that he said specifically. It was — his boss

2 was in remission of cancer at the time. That's the

3 only thing I remember. I don't know a date.

14:50 4 Q. He told you that Vicki Yacovany was in

5 remission at the time that she gave him these

6 bicycles?

14:50 7 A. She was back at work in remission.

14:50 8 Q. When is it that Nick told you he was going

9 to give you a track bicycle?

14:50 10 A. I don't remember.

14:51 11 Q. Was it after you had started training to

12 ride on the track?

14:51 13 A. Yes.

14:51 14 Q. How long had you been training,
15 approximately, at the point he told you he was going
16 to get you a track bicycle?

14:51 17 A. I don't remember.

14:51 18 Q. Where did he tell you that?

14:51 19 A. I don't remember.

14:51 20 Q. Do you recall anything else about the
21 conversation at all?

14:51 22 A. What conversation?

14:51 23 Q. Conversation when Mr. Chenoweth told you he
24 was going to give you a track bicycle.

14:51 25 A. There wasn't just one conversation. I

55

1 mean, he talked about training, working out,
2 cycling, competing all the time. It's our
3 lifestyle. I'm not sure what you're —

14:52 4 Q. When was the first time Mr. Chenoweth told
5 you he was going to give you a track bicycle?

14:52 6 A. I don't remember exactly when.

14:52 7 Q. Do you recall —

14:52 8 A. It was shortly after I told him I would
9 like to learn how to ride the track and maybe
10 compete if I was — if I could be competitive.

14:52 11 Q. Were you already training for the track at
12 that point?

14:52 13 MR. HARPER: Objection: Form.

14:52 14 A. Let me clarify that when I met Nick, he
15 was cycling. And I had an injury from a car
16 accident. I ran and stuff. He asked me if I ever

17 considered cycling instead of running and continuing
18 to irritate my injuries, and I said yes.

19 I started learning how to ride a
20 bicycle before I ever decided I was going to compete
21 and learn how to ride on the track. So I didn't one
22 day go, I want to compete and ride on the track, and
23 start training for that. I just learned how to ride
24 a bicycle first.

14:53 25 Q. I thought in your earlier testimony you

56

1 said at the point when you first started riding the
2 purple bicycle, you had been training for eight
3 months to learn to ride on the track.

14:56 4 A. Yes.

14:56 5 Q. So does that eight months encompass
6 learning to ride and then training to ride on the
7 track?

14:56 8 A. Yes.

14:56 9 Q. And Mr. Chenoweth told you that he was
10 going to give you a track bike at the point when you
11 decided that you would want to be able to ride on
12 the track to compete?

14:56 13 A. Yes.

14:56 14 Q. How long had you been riding a bicycle
15 when you made that decision?

14:56 16 A. I don't know exactly. A few months, I
17 would guess.

14:56 18 Q. Was there any particular event or
19 occurrence that triggered the decision in you to try
20 to compete on the track, cycling?

14:56 21 A. Yes. I went to all of his competitions
22 with him in '97. I watched and I enjoyed it, and I
23 made the decision I wanted to try to do it also.
24 Not at that time, but watching those events got my
25 interest in it.

57

14:56 1 Q. Had you already decided you wanted to be a
2 track cyclist at the time you accompanied Nick to
3 the '98 Master's Nationals in Redmond, Washington?

14:56 4 A. Repeat that.

14:56 5 Q. Had you already decided you wanted to be a
6 track cyclist at the point where you accompanied
7 Nick to the '98 Master's Nationals in Redmond,
8 Washington?

14:56 9 A. Yes, I think so. I don't remember exactly
10 when I made this decision, or I don't even remember
11 the exact date of that event, but — again, I'm not
12 sure exactly when I decided that I wanted to do it.

14:56 13 Q. Do you know approximately when the
14 Master's Nationals are in Redmond — were in
15 Redmond, Washington?

14:56 16 A. I really don't remember. In the summer.
17 I don't remember the exact date.

14:56 18 Q. How about the Master's World Championships
19 in Manchester, UK, '98?

14:56 20 A. What about them?

14:57 21 Q. Did you go to those also?

14:57 22 A. Yes.

14:57 23 Q. When were those?

14:57 24 A. I think the end of September.

14:57 25 Q. Who paid for your trips to Redmond and

58

1 Manchester?

14:57 2 A. I don't know.

14:57 3 Q. You don't know who paid for them?

14:57 4 A. No.

14:57 5 Q. Did you ever ask who was paying for it?

14:57 6 A. No.

14:57 7 Q. Did you ever see any of the bills

8 associated with it?

14:57 9 A. No.

14:57 10 Q. Are you aware of whether or not EDS paid

11 for it?

14:57 12 A. No.

14:57 13 Q. Were you ever a member of Team EDS?

14:57 14 A. No.

14:57 15 Q. Never ever an employee of EDS?

14:57 16 A. No.

14:57 17 Q. Any reason why EDS should have paid for

18 anything that you received?

14:57 19 MR. HARPER: Objection: Form.

14:57 20 Q. That you know of.

14:57 21 A. What?

14:57 22 Q. Any reason that you know of why EDS should

23 have paid for things that you received?

14:58 24 MR. HARPER: Objection: Form.

14:58 25 A. I'm not aware that EDS paid for anything

59

1 that I received.

14:58 2 Q. Are you aware of any reason why EDS should
3 have paid for anything you received?

14:58 4 MR. HARPER: Objection: Form.

14:58 5 A. I don't understand what you mean.

14:58 6 Q. Are you aware of any justification for
7 submission of expense reports relating to your
8 expenses in traveling with Nick Chenowth to his
9 various events to EDS for payment?

15:02 10 MR. HARPER: Objection: Form.

15:02 11 A. Am I aware of —

15:02 12 Q. Any justification for submission of
13 expense reports relating to your expenses for
14 accompanying Mr. Chenowth on his races.

15:02 15 MR. HARPER: Objection: Form.

15:02 16 A. I'm not aware that EDS paid for anything
17 of mine.

15:02 18 MS. RIES: I'm going to object as
19 nonresponsive.

15:02 20 Q. Are you aware of any justification for
21 anyone submitting, if they did, expense reports to
22 EDS for reimbursement of expenses you incurred in
23 accompanying Mr. Chenowth on his races?

15:02 24 MR. HARPER: Objection: Form.

15:02 25 A. Well, the races that I accompanied Nick

1 on, I helped out the team. I was there for support.
2 I helped out the team with anything they might have
3 needed.

15:02 4 Q. What did you do for the team?

15:02 5 A. Anything they might have needed prior to
6 racing, during racing, after racing, with the
7 equipment, stretching, carrying — I helped out.

15:02 8 Q. Who specifically did you help?

15:02 9 A. Anyone on the team that needed help.

15:02 10 Q. Give me a name of anyone that you helped.

15:02 11 A. Gil Hatton.

15:02 12 Q. Gil Hayden?

15:02 13 A. Hatton, H-A — I don't know if it's
14 H-A-T-T-O-N or H-A-D-D-O-N.

15:02 15 Q. Anybody else you helped?

15:02 16 A. I think it's H-A-T-T-O-N. Chris Carlson.

15:02 17 Q. Anyone else?

15:02 18 A. Skip Cutting.

15:02 19 Q. Anyone else?

15:02 20 A. Nick, Steve Walsh. He wasn't on the team
21 but he was part of the team. He was there. I
22 helped him at times. Brett Hydrick.

15:02 23 Q. Is it your understanding that Brett
24 Hydrick is a member of Team EDS?

15:02 25 A. He's not a member of the team, but he's

61

1 the team mechanic.

15:02 2 Q. Is that what you meant awhile ago when you
3 said he was our mechanic?

15:02 4 A. Yes.

15:02 5 MR. HARPER: Objection: Form.

15:02 6 Q. Anybody else?

15:02 7 A. Not that I can recall at this time.

15:02 8 Q. Was it your understanding that in return
9 for these services you were performing for the team
10 or people associated with the team, that EDS was
11 going to pay your expenses for traveling to these
12 competitions?

15:02 13 MR. HARPER: Objection: Form.

15:02 14 A. Was it my understanding —

15:02 15 Q. Correct.

15:02 16 A. — that they were going to compensate me?

15:02 17 Q. That they were going to pay for your
18 expenses. Was it your understanding that in return
19 for these services you say you performed for the
20 team or people associated with the team, that EDS
21 was going to pay your expenses associated with
22 traveling to these events?

15:02 23 A. No.

15:02 24 Q. Who did you believe was going to be paying
25 for your expenses?

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15:02 1 A. Nick.

15:02 2 Q. Are you aware of who rode the purple
3 Corima bike in your possession before you got it?

15:02 4 A. No.

15:02 5 Q. Did you know that it's a Team EDS bicycle?

15:02 6 MR. HARPER: Objection: Form.

15:02 7 A. No.

15:02 8 Q. Did you receive any other bicycling
9 equipment that was supposedly given away by Vicki
10 Yacovany of EDS?

15:02 11 A. What was the question?

15:02 12 MR. HARPER: Objection to form.

15:02 13 Q. Did you receive any other bicycling
14 equipment that was supposedly given away by Vicki
15 Yacovany of EDS?

15:02 16 MR. HARPER: Objection: Form.

15:02 17 A. What do you mean any other cycling
18 equipment?

15:03 19 Q. Did you receive any other cycling
20 equipment other than the purple bicycle that was
21 supposedly given away by Vicki Yacovany of EDS?

15:03 22 A. No.

15:03 23 Q. No helmets?

15:03 24 A. No.

15:03 25 Q. No clothing?

63

15:03 1 A. No.

15:03 2 Q. No wheels?

15:03 3 A. The wheels I guess would be included with
4 the bicycle, or I thought — I guess wheels maybe.
5 The wheels that were on the bicycle is all I
6 received, so I'm including that as the bicycle.

15:03 7 Q. The tires that are on the bicycle right
8 now, are those the original tires it had on it when
9 you were given the bicycle?

15:03 10 A. Yes.

15:03 11 Q. You've never had to change the tires?

15:04 12 A. I did have a couple of flats, but I
13 mean — so no, I guess the tires that are on there
14 are not the original, because I had two flats.

15:04 15 Q. Where did you get the tires that replaced

16 the flat tires?

15:04 17 A. Brett.

15:04 18 Q. From Brett Hydrick?

15:04 19 A. Yes.

15:04 20 Q. And what kind of tires are those?

15:04 21 A. I don't know.

15:04 22 Q. You don't know that they're Continental

23 Sunderklast tires?

15:04 24 A. I don't know what kind of tires they are.

15:04 25 Q. Did you pay for those tires?

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15:04 1 A. No.

15:04 2 Q. It's your belief that Nick paid for those

3 tires?

15:04 4 A. Yes.

15:04 5 Q. Any reason why EDS should have paid for

6 tires for your bicycle that you know of?

15:04 7 MR. HARPER: Objection: Form.

15:05 8 A. I wasn't aware that EDS was paying for

9 anything.

15:05 10 Q. If EDS did pay for the tires for your

11 bicycle, is there any reason you're aware of why

12 that would be appropriate?

15:05 13 MR. HARPER: Objection: Form.

15:05 14 A. No.

15:05 15 Q. Did you get any wheel bags?

15:05 16 A. No.

15:05 17 Q. Components on the bicycle?

15:05 18 A. The bicycle came intact.

15:05 19 Q. So it's your contention that at the time

20 Nick gave you this bicycle, he also gave you the
21 components and the wheels that were attached to it
22 at the time?

15:05 23 A. Yes. It was a built-up bicycle when it
24 was given to me.

15:05 25 Q. You said that it was somehow modified to

65

1 your specifications?

15:05 2 A. Yes.

15:05 3 Q. When did that happen?

15:05 4 A. I don't know exactly when.

15:06 5 Q. Who modified it?

15:06 6 A. Brett Hydrick.

15:06 7 Q. Did you pay for modifications to your
8 bicycle?

15:06 9 A. No.

15:06 10 Q. What modifications were made to this
11 bicycle?

15:06 12 A. You're calling them modifications. When
13 you get a bicycle, you have to get the seat height
14 according to your — I mean, I can't ride a seat
15 that's too high. I mean, it has to be — the bike
16 has to be built up to my specifications, my seat
17 height, how far the handlebars are forward, so it
18 was adjusted to fit me.

15:06 19 Q. When did that happen?

15:06 20 A. It wasn't necessarily modifying by
21 rebuilding it or anything. I don't know. Before I
22 actually rode it. It has to be built up to my
23 specifications before I can ride it, so I can't tell

24 you exactly when it was done.

15:07 25 Q. So were you present when this bicycle was

66

1 adjusted or when determinations were made about what

2 adjustments needed to be done to the bicycle to make

3 it fit you?

15:07 4 A. Yes.

15:07 5 Q. Did it happen at the track that day the

6 bicycle was given to you?

15:07 7 A. There may have been some adjustments made

8 that day, yes.

15:07 9 Q. Were there adjustments made prior to that

10 day?

15:07 11 A. Yes.

15:07 12 Q. When?

15:07 13 A. I don't know.

15:07 14 Q. Where?

15:07 15 A. Trying to remember. At the track and at

16 Texas Racing Works.

15:07 17 Q. Was this bicycle purple the previous times

18 that you saw it when it was being fitted to you?

15:08 19 A. The measurements were taken from me and

20 then they were put on the bike, and then I got on

21 the bike and checked those measurements.

22 I'm sorry. What was the original

23 question?

15:08 24 Q. Was the bicycle purple these earlier times

25 when you saw it when you were being measured and it

1 was being adjusted?

15:08 2 MR. HARPER: Objection: Form.

15:08 3 A. I don't remember if I saw it before it was
4 painted. I remember getting on someone else's Team
5 EDS bike to see what size frame I would be and I
6 remember Brett taking measurements on me, like
7 measuring my seat height and stuff.

8 Then when we actually got my bike, we
9 took measurements off of it and changed —
10 measurements were also taken — I can't remember
11 exactly when and where and how all the measurements
12 were taken. Those are the measurements I can
13 recall.

15:09 14 Q. Was the bike you ultimately were given
15 painted as a Team EDS bike at any of the times you
16 saw it?

15:09 17 MR. HARPER: Objection: Form.

15:09 18 A. I don't remember seeing it before it was
19 given to me and being purple. Again, I was measured
20 on some other Team EDS bikes. I don't remember
21 seeing the bike that I have before it was purple.
22 If I saw it, I didn't know it was going to be my
23 bike or whatever. I don't remember.

15:12 24 Q. When was the first time you were measured
25 for — so that the adjustments could be made to this

1 Corima bike that you were ultimately given in

2 October of '98?

15:12 3 A. I don't remember.

15:12 4 Q. How long before you received it,
5 approximately?

15:12 6 A. A month maybe.

15:12 7 Q. You said: And then when we received my
8 bike, the adjustments were made to that bike. When
9 was it received before it was given to you?

15:12 10 A. What?

15:12 11 Q. Well, you said that first you tried on —
12 you sat on, I guess, some other Corima bicycles that
13 belonged to team EDS members and then when we
14 received my bike, the final adjustments were made.
15 Isn't that what you said?

15:12 16 A. When it was out at the track the day that
17 I rode it, adjustments were made to make sure it was
18 the right height and handlebars were adjusted
19 correctly.

15:12 20 Q. Do you have any idea where the bike came
21 from before that day you saw it at the track in
22 October of '98?

15:12 23 MR. HARPER: Objection: Form.

15:12 24 A. I didn't try to figure it out. I didn't
25 ask.

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15:12 1 Q. Did you ever hear where it came from?

15:12 2 MR. HARPER: Objection: Form.

15:12 3 A. No.

15:12 4 Q. Did you ask that it be painted purple?

15:12 5 A. Yes. I was asked what color I wanted it
6 to be.

15:12 7 Q. By who?
15:12 8 A. Brett.
15:12 9 Q. Did you pay for it to be painted purple?
15:12 10 A. No.
15:12 11 Q. Do you understand there was some charge
12 associated with that?
15:12 13 A. Yes.
15:12 14 Q. Who did you think paid for that?
15:12 15 A. Nick.
15:12 16 Q. And as far as you know, it would not have
17 been appropriate for EDS to have paid to paint the
18 bike purple for you?
15:12 19 MR. HARPER: Objection: Form.
15:12 20 A. Repeat the question.
15:12 21 Q. As far as you know, it would not have been
22 appropriate for someone to have expected EDS to
23 paint the bike purple for you; is that correct?
15:12 24 MR. HARPER: Objection: Form.
15:12 25 A. Repeat the question again.

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15:12 1 Q. As far as you know, it would not have been
2 appropriate for someone to have expected EDS to
3 paint — or to pay to paint the bike purple for you;
4 is that correct?
15:12 5 MR. HARPER: Objection: Form.
15:12 6 A. Is what correct?
15:12 7 Q. My statement, that as far as you know it
8 would not have been appropriate for someone to have
9 expected EDS to pay to paint your bike purple.
15:13 10 MR. HARPER: Same objection.

15:13 11 A. I didn't expect for EDS to pay for my
12 bike. I didn't know EDS was paying for my bike. I
13 didn't think EDS paid for my bike. I thought Nick
14 paid for my bike to be painted.

15:13 15 Q. And as far as you know, there would have
16 been no reason for EDS to pay for your bike to be
17 painted, correct?

15:13 18 MR. HARPER: Objection: Form.

15:13 19 A. Correct.

15:13 20 Q. Other than this purple bicycle, what other
21 things do you believe that Nick Chenoweth gave to
22 you?

15:14 23 MR. HARPER: Objection: Form.

15:14 24 A. What do you mean?

15:14 25 Q. Gifts from Nick Chenoweth. Other than the

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1 purple bike, what gifts have you received that you
2 believe at least were from Nick Chenoweth other than
3 the purple bike?

15:14 4 A. Several things.

15:14 5 Q. Please tell me.

15:14 6 A. Everything he's ever given me for the last
7 two years. Is that what you're asking?

15:14 8 Q. Everything that you can recall.

15:14 9 MR. HARPER: Objection: Form.

15:14 10 A. That could be — you mean, here, here's a
11 gift, or do you mean paid for? Do you mean...

15:14 12 Q. Yes, I mean both of those, or at least you
13 believed he paid for them.

15:15 14 MR. HARPER: Objection: Form.

15:15 15 A. Food.
15:15 16 Q. What else?
15:15 17 A. Some clothes.
15:15 18 Q. Bicycling clothes, business clothes? What
19 kind of clothes?
15:15 20 A. A variety of things.
15:15 21 Q. Including bicycling clothes?
15:15 22 A. Some.
15:15 23 Q. Where did you get those from?
15:15 24 A. Richardson Bike Mart.
15:15 25 Q. Did you see Nick Chenoweth pay for these

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1 bicycling clothes from Richardson Bike Mart?
15:16 2 A. Sometimes.
15:16 3 Q. How did he pay for them?
15:16 4 A. What do you mean how did he pay for them?
15:16 5 Q. Did he pay with cash, a check, a credit
6 card? How did he pay for them?
15:16 7 A. All the above at some time or another. I
8 don't remember each time how he paid for it.
15:16 9 Q. But it's your testimony that he paid cash,
10 he wrote checks, and he used a credit card?
15:16 11 A. At least credit card and cash at different
12 times. I'm not sure about a check.
15:16 13 Q. Did he ever charge them on an account,
14 anything at Richardson Bike Mart that you saw?
15:16 15 A. I don't know.
15:16 16 Q. Did he ever not pay for something?
15:16 17 MR. HARPER: Objection: Form.
15:16 18 A. No.

15:16 19 Q. Okay. What else?
15:17 20 A. Other than clothes and food. A car, I
21 guess.
15:17 22 Q. What car?
15:17 23 A. Corvette.
15:17 24 Q. The '98 black Corvette you told me about
25 awhile ago?

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15:17 1 A. Yes. It was — he got it on his credit.
2 I've been making monthly payments on it, so if you
3 want to call that...
15:18 4 Q. Since when have you been making monthly
5 payments?
15:18 6 A. Since whenever the first payment started,
7 since we've — I don't know the exact date.
15:18 8 Q. All of the payments, including whatever
9 down payment there may have been, have been made by
10 you?
15:18 11 A. There was no down payment. I've paid most
12 of the monthly payments.
15:18 13 Q. Who has paid the rest of them?
15:18 14 A. Nick. I've paid most of them.
15:18 15 Q. How many has he paid?
15:18 16 A. I don't know.
15:18 17 Q. How much are they?
15:19 18 A. \$953 and maybe some change.
15:19 19 Q. Who pays the insurance on it?
15:19 20 A. Nick.
15:19 21 Q. How much do you get paid per hour for your
22 work as an independent contractor for the sports

23 workout facilities?

15:19 24 A. Between \$30 and \$40. I'm sorry. For the

25 independent contractor —

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15:19 1 Q. Yes.

15:19 2 A. — positions? Between \$30 and \$40.

15:19 3 Q. How much do you get paid at Richardson

4 Bike Mart?

15:19 5 A. \$10 an hour.

15:20 6 Q. Did you have any other sources of income

7 other than those two and excluding this summer job

8 at the speed-development camp, since the time you

9 bought the Corvette?

15:21 10 A. Yes.

15:21 11 Q. What?

15:21 12 A. My parents.

15:21 13 Q. Do they regularly give you money?

15:21 14 A. They have been, yes.

15:21 15 Q. Since when?

15:21 16 A. Since I went back to school to get my

17 master's degree.

15:21 18 Q. And when was that?

15:21 19 A. When I went back to school? Is that the

20 question?

15:21 21 Q. Yes.

15:21 22 A. September of '94, I believe.

15:21 23 Q. Have you been in school to get your

24 master's continuously since September of '94?

15:21 25 A. No.

- 15:21 1 Q. Have your parents been giving you money
2 continuously since September of '94?
- 15:26 3 A. Yes.
- 15:26 4 Q. How much have they given you?
- 15:26 5 A. How much have they given me over all this
6 time?
- 15:26 7 Q. I think you said they give you a regular
8 amount.
- 15:26 9 A. Yes.
- 15:26 10 Q. How much do they regularly give you?
- 15:26 11 A. Between \$1000 and \$2000.
- 15:26 12 Q. Per month?
- 15:26 13 A. Per month or when I needed it.
- 15:26 14 Q. Is that generally per month?
- 15:26 15 A. Generally.
- 15:26 16 Q. Are you in school right now?
- 15:26 17 A. Am I in school right now?
- 15:26 18 Q. Yes.
- 15:26 19 A. No.
- 15:26 20 Q. When was the last time you were in school,
21 you were enrolled in school?
- 15:26 22 A. December of '97 — '96.
- 15:26 23 Q. December of '96 is the last time you were
24 enrolled?
- 15:26 25 A. Yes.

- 15:26 1 Q. Is it your parents' understanding that

2 you're enrolled in school and working on getting a

3 master's degree now?

15:26 4 A. No.

15:26 5 Q. But they continue to provide these monthly

6 sums to you?

15:26 7 A. I have bills to pay off —

15:26 8 Q. So that's a yes?

15:26 9 A. — expenses to pay off. I'm sorry. Say

10 the question again.

15:26 11 Q. But they continue to provide these monthly

12 sums to you?

15:26 13 A. Yes.

15:26 14 Q. Other than his employment at EDS, are you

15 aware of any other source of income that Nick

16 Chenoweth has had since the time you knew him?

15:26 17 MR. HARPER: Objection: Form.

15:26 18 A. Can you repeat that question?

15:26 19 Q. Other than his income from EDS, are you

20 aware of any other sources of income for Nick

21 Chenoweth during the time that you've known him?

15:26 22 A. No.

15:26 23 Q. Is he currently employed?

15:26 24 A. I'm sorry. What?

15:26 25 Q. Is Mr. Chenoweth currently employed?

15:26 1 A. Yes.

15:26 2 Q. Where does he work?

15:26 3 A. He's an independent contractor.

15:26 4 Q. For whom?

15:26 5 A. Cooper Fitness Center.

15:26 6 Q. Is he employed anywhere else that you're
7 aware of?

15:26 8 A. Signature Athletic Club.

15:26 9 Q. Anywhere else?

15:26 10 A. North Dallas Athletic Club.

15:26 11 Q. Anywhere else?

15:26 12 A. Fitness Factory.

15:26 13 Q. Anywhere else?

15:26 14 A. No, not that I'm aware of.

15:26 15 Q. As an independent contractor, does he
16 teach courses at these places, classes?

15:27 17 A. Yes.

15:27 18 Q. Do you know what his weekly income is from
19 teaching these classes?

15:27 20 MR. HARPER: Objection: Form.

15:27 21 A. No.

15:27 22 Q. Do you have any idea?

15:27 23 MR. HARPER: Objection: Form.

15:27 24 A. No.

15:27 25 Q. How many hours a week does he work

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1 teaching classes? Or working as an independent
2 contractor. Let me put it that way.

15:27 3 MR. HARPER: Objection: Form.

15:27 4 A. I don't know exactly. I don't — he just
5 started. It's varied; I don't know.

15:27 6 Q. When did he start?

15:27 7 A. I don't remember. It's been approximately
8 between a month and two months since he was — I'm
9 not exactly sure of these dates, this time period.

15:27 10 Q. So he's had employment for one to two
11 months as an independent contractor?

15:27 12 A. Yes.

15:27 13 Q. But you don't know how much it is?

15:27 14 A. No, I don't.

15:27 15 Q. Do you know how much he makes per hour?

15:27 16 A. No, I don't. It varies, I'm sure, from
17 club to club, same as mine, so — that's speculation
18 on my part. I don't know.

15:27 19 Q. Awhile ago when I asked you about assets
20 owned by Nick Chenoweth, you identified the '98
21 Corvette as being owned by Nick Chenoweth. Do you
22 recall that?

15:27 23 A. Yes.

15:27 24 Q. Why is that?

15:27 25 A. Why is what?

79

15:27 1 Q. Why did you say it that way if your
2 testimony is that you make the payments?

15:27 3 A. It's in his name.

15:27 4 Q. Is it your belief that he's given you that
5 car?

15:27 6 A. I drive it.

15:27 7 Q. Is it your belief that he's given you that
8 car?

15:27 9 A. He's given it to me to drive.

15:27 10 Q. Well, who does it belong to?

15:27 11 A. What do you mean?

15:27 12 Q. Who owns the car?

15:27 13 A. He does. It's in his name.

15:27 14 Q. And as far as you're concerned, he owns
15 the car?

15:27 16 A. Yes. It's in his name.

15:27 17 Q. Not asking you whose name the title is in.
18 I'm asking you: In your opinion, who owns the car?

15:27 19 MR. HARPER: Objection: Form.

15:27 20 A. Well, in my opinion, if someone has a
21 title to a car, then they own it. It's in his name,
22 so I assume he owns it.

15:27 23 Q. In whose name is the trailer to — the
24 title to that trailer that you tried to give to
25 Brett Hydrick, whose name is that in?

80

15:27 1 MR. HARPER: Objection: Form.

15:27 2 A. I don't know.

15:27 3 Q. Who do you assume owns that?

15:27 4 MR. HARPER: Objection: Form.

15:27 5 A. I don't know anything about that. I don't
6 know any details of that other than what I was told.

15:28 7 Q. Where is the — sorry.

15:28 8 A. Other than what I was told.

15:28 9 MS. RIES: Do you have it to give to
10 me?

15:28 11 MR. HARPER: I understand it got
12 delivered to your office this morning.

15:28 13 MS. RIES: Okay.

15:28 14 MR. HARPER: I put "for hand
15 delivery" and asked my secretary to make a copy for
16 your file. It's my understanding somebody signed
17 for it at your office at 10.

15:28 18 MS. RIES: It's my understanding you

19 were going to give it to me here.

15:28 20 MR. HARPER: That's my understanding

21 as well. However —

15:28 22 MS. RIES: She's overly efficient.

15:28 23 MR. HARPER: Yes, she is.

15:28 24 Q. Other than his work as an independent

25 contractor now, are you aware of any other sources

81

1 of income to Nick Chenowth?

15:28 2 A. No.

15:28 3 Q. Did you ever see Nick Chenowth in

4 possession of large sums of cash during the time

5 that you've known him?

15:29 6 A. No.

15:29 7 Q. Did you ever see Nick Chenowth in

8 possession of cashier's checks during the time

9 you've known him?

15:29 10 A. No.

15:29 11 Q. No, never?

15:29 12 A. No.

15:29 13 Q. Does he have any checking accounts?

15:30 14 A. Does he have any checking accounts?

15:30 15 Q. Yes.

15:30 16 A. Yes.

15:30 17 Q. Where at?

15:30 18 MR. HARPER: Objection: Form.

15:30 19 A. I don't know all the — I don't know all

20 of his accounts.

15:30 21 Q. Please tell me where he has whatever

22 accounts you're aware of, whether they're checking

23 or savings or any other kind.

15:30 24 A. Legacy Bank. I don't know what it's

25 called exactly.

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15:30 1 Q. Legacy Bank?

15:30 2 A. Legacy Bank.

15:30 3 Q. All right. What else?

15:30 4 A. Compass Bank. I'm not sure what else.

5 Those are the only two that I can say for sure that

6 I know of.

15:30 7 Q. Did you ever see Nick Chenoweth paying a

8 vendor in cash for items that were supposedly for

9 the benefit of EDS?

15:30 10 A. No.

15:30 11 Q. Did you ever see him in possession of

12 handwritten documentation which purported to be from

13 Richardson Bank One?

15:30 14 A. No.

15:30 15 Q. Did you ever see him in possession of

16 invoices from Texas Racing Works?

15:30 17 A. No.

15:30 18 Q. Did he ever tell you anything about

19 invoices that he had received from Texas Racing

20 Works?

15:31 21 A. No. He didn't discuss anything with me —

22 any of his business or business dealings with me.

23 The only knowledge I have of anything is what he

24 made me aware of after he was fired, which I

25 discussed with you earlier.

15:31 1 Q. Did he tell you that he had received from
2 Texas Racing Works false invoices which he had Brett
3 Hydrick indicate had been paid by Nick Chenowth
4 when, in fact, he had not paid the invoices?

15:31 5 MR. HARPER: Objection: Form.

15:31 6 A. I'm not aware of any of his business
7 dealings.

15:31 8 Q. Has he ever told you that, before or after
9 the lawsuit was filed?

15:31 10 A. Would you restate it, please?

15:31 11 Q. Yes. Has Nick Chenowth ever told you
12 about invoices that he received from Texas Racing
13 Works that are false invoices that he had Brett
14 Hydrick write on them had been paid by Nick Chenowth
15 in cash when, in fact, he had not paid them?

15:32 16 A. No.

15:32 17 Q. Did he ever tell you about documents he
18 submitted to EDS claiming that they were receipts
19 from Richardson Bike Mart and received reimbursement
20 from EDS based on them which are false documents?

15:34 21 A. No.

15:34 22 Q. Are you familiar with Nick's handwriting?

15:34 23 A. Yes.

24 (Exhibit No. 1 marked)

15:34 25 Q. I show you what's been marked Exhibit 1.

1 Have you ever seen that kind of document before?

15:35 2 A. No.

15:35 3 Q. Do you recognize the handwriting on that
4 document, any of it?

15:35 5 A. No, I'm not sure that I do.

15:35 6 Q. Do you believe that you recognize it?

15:35 7 MR. HARPER: Objection: Form.

15:35 8 A. I'm not sure that I can recognize any of
9 this handwriting.

15:35 10 Q. Does any of the handwriting look familiar
11 to you?

15:35 12 A. I can't say that it actually does look
13 familiar. I mean...

15:35 14 Q. You're not sure one way or the other?

15:35 15 A. No.

15:35 16 Q. My statement is correct: You're not sure
17 one way or the other?

15:35 18 A. Right. I'm not sure.

19 (Exhibit No. 2 marked)

15:35 20 Q. I show you now what's been marked Exhibit
21 2. Do you recognize any of the handwriting on that
22 document?

15:35 23 A. I'm not sure.

15:35 24 Q. Do you have anything in your possession
25 that you know was written by Nick Chenowth?

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15:35 1 A. No, I don't think so.

15:35 2 Q. What have you seen in Nick Chenowth's
3 handwriting?

15:35 4 A. What have I seen in Nick's handwriting?

15:35 5 Q. Right.

15:35 6 A. I don't know exactly. Some notes at home,
7 reminders. Just notes, lists of stuff that he's
8 scribbled out.

15:36 9 Q. None that you're aware of are still in
10 existence?

15:36 11 A. Not that I'm aware of.

15:36 12 Q. Do you know that the handwriting on
13 Exhibits 1 and 2 is not Nick Chenoweth's handwriting
14 or you just don't know?

15:36 15 A. I just don't know.

15:36 16 Q. Did Nick give you a Spin bicycle?

15:36 17 A. No.

15:36 18 Q. Are you aware of whether he owns any Spin
19 cycles?

15:36 20 A. No.

15:36 21 Q. Did he give you any memberships in any
22 gyms or health clubs?

15:36 23 A. No.

15:36 24 Q. Did he arrange for you to receive any
25 massages or sports therapy of any sort?

86

15:36 1 A. No.

15:36 2 Q. Did he give you Team EDS cycling gear,
3 clothing, or anything else that was associated with
4 Team EDS?

15:37 5 A. One pair of bib shorts.

15:37 6 Q. Did they say EDS on them?

15:37 7 A. Yes.

15:37 8 Q. Anything else?

15:37 9 A. No.

15:37 10 Q. Other than food and rent and I guess

11 utility bills, has he ever paid for any other of

12 your expenses: Medical expenses, anything else?

15:37 13 A. No.

15:37 14 Q. Has he paid for any vacations that you've

15 taken?

15:37 16 A. Yes.

15:39 17 Q. When?

15:39 18 A. This past winter we went to Snowmass snow-

19 boarding.

15:39 20 Q. Is it your understanding that Nick

21 Chenoweth paid for all of your expenses?

15:39 22 A. Yes.

15:39 23 Q. Any reason why EDS would have been paying

24 for your expenses, if it did?

15:39 25 A. No.

87

15:39 1 Q. Any other vacations?

15:39 2 A. No.

15:39 3 Q. You've talked a little bit about two trips

4 accompanying Nick to cycling events, one the '98

5 Master's in Redmond and one the '98 World

6 Championships in Manchester, England.

7 Any other cycling trips that you

8 thought were being paid for by Nick Chenoweth?

15:39 9 A. No.

15:39 10 Q. Who paid for the rest of the trips?

15:39 11 A. What trips?

15:39 12 Q. I thought you said you accompanied him to

13 cycling events in '97.

15:39 14 A. They were at the Super Dome.

15:39 15 Q. None of them were out of town in '97?

15:39 16 A. The only trips that I've been on with him

17 out of town were to Manchester, England, and to

18 Seattle.

15:39 19 Q. You have a cell phone or digital phone?

15:39 20 A. Yes.

15:39 21 Q. Who does that belong to?

15:39 22 A. Who does it belong to?

15:39 23 Q. Yes.

15:39 24 A. Well, it's mine. I use it. Nick got it

25 for me. I forgot about that. He did give me a new

88

1 cell phone.

15:39 2 Q. When was that?

15:39 3 A. For Christmas.

15:39 4 Q. Christmas '98?

15:39 5 A. Yes.

15:39 6 Q. What kind is it, what brand?

15:40 7 A. Ericsson.

15:40 8 Q. Who pays the bills associated with it?

15:40 9 A. Nick.

15:40 10 Q. How many cell phones are you aware of that

11 Nick had in his possession during the time he worked

12 for EDS, or had loaned out to various people, as the

13 case may be?

15:40 14 A. I'm sorry. I guess I didn't understand

15 the question.

15:40 16 Q. How many — I'm calling them cell

17 phones — I don't know; they could be cellular; they
18 could be digital, but little portable phones — are
19 you aware of that Nick either owned or controlled
20 during the time he worked for EDS?

15:40 21 MR. HARPER: Objection: form.

15:40 22 A. I only know of the one he used. I don't
23 know of any others.

15:40 24 Q. What was the number for the one he used?

15:40 25 A. 214-697-7672.

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15:41 1 Q. And was it always that number as long as
2 you knew him?

15:41 3 A. As long as I've known him.

15:41 4 Q. Does he still have that one?

15:41 5 A. Yes.

15:42 6 Q. And what's the phone number for the one he
7 gave you at Christmas?

15:42 8 A. 972-385 — I'm sorry 972-342-4085.

15:42 9 Q. You're aware that until the day that he
10 was fired from EDS, Nick used an EDS van, correct?

15:42 11 A. Yes.

15:42 12 Q. Are you aware of another EDS van that was
13 used by another member of his family?

15:42 14 A. Yes.

15:42 15 Q. What was that?

15:42 16 A. What was what?

15:42 17 Q. Who else in Nick's family was using an EDS
18 vehicle?

15:42 19 A. His mom used a van every once in a while.

15:42 20 Q. A second van?

15:42 21 A. Could have been the same one. I'm not
22 sure.

15:42 23 Q. You don't know whether there was one or
24 two vans at the house?

15:42 25 A. Well, there were two at times.

90

15:42 1 Q. So she used one and he used one at times?

15:42 2 MR. HARPER: Objection: Form.

15:42 3 A. I don't know.

15:42 4 Q. You know they both belonged to EDS?

15:42 5 MR. HARPER: Objection: Form.

15:42 6 A. I don't know.

15:42 7 Q. Does Nick's mother live at the same house
8 that you live at?

15:43 9 A. Yes.

15:43 10 Q. And has she lived there during the time
11 that you've lived there?

15:43 12 A. Yes.

15:43 13 Q. And when did you move into this house?

15:43 14 A. November '98 — I'm sorry. The first of
15 December of '98. My lease ran out in November, end
16 of November.

15:43 17 Q. I'm sorry. What?

15:43 18 A. My lease ran out at the end of November,
19 so I actually moved in at the first of December.

15:43 20 Q. Are you aware of any services that Nick's
21 mother provided to EDS through the use of this van?

15:43 22 A. No.

15:43 23 Q. Are you aware of any reason at all why EDS
24 should have appropriately been paying for a van for

25 Nick's mother to use?

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15:43 1 MR. HARPER: Objection: Form.

15:43 2 A. I don't know that his mother was using the

3 van, so I can't answer that.

15:44 4 Q. Assuming she was using the van, do you

5 know of any reason why EDS should have been paying

6 for a van for Nick's mother to use?

15:44 7 MR. HARPER: Objection: Form.

15:44 8 A. No.

15:44 9 Q. Are you aware of any stock that Nick owns?

15:44 10 A. No.

15:44 11 Q. Are you aware of any dealings he does

12 through a stockbroker?

15:44 13 A. No.

15:44 14 Q. Are you aware of any savings accounts that

15 he has?

15:44 16 A. No.

15:44 17 Q. Or had in the past?

15:44 18 A. No.

15:44 19 Q. Do you have any knowledge of how he keeps

20 or kept his financial records?

15:44 21 A. No.

15:44 22 Q. Did you ever see his check register?

15:44 23 A. No.

15:44 24 Q. Did you ever see whether he has

25 information concerning bank accounts on a computer?

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15:44 1 A. No.

15:44 2 Q. You don't know whether he keeps his
3 financial records manually or on computer?

15:45 4 A. I don't think — I mean, by hand,
5 manually. Not a computer that I'm aware of.

15:46 6 Q. Does he have an accountant?

15:46 7 A. I'm not sure. I believe he does. I'm not
8 sure.

15:46 9 Q. You don't know who that is?

15:46 10 A. No.

15:46 11 Q. Have you ever seen bank statements coming
12 through the mail to the house at Chalfont at any
13 point?

15:46 14 A. I guess I have. I mean, I receive mine
15 there. I haven't noticed specifically if he or his
16 mother have. He would assume they have. I haven't
17 really paid attention to what kind of mail they get.
18 My mail's usually separated out for me. I don't
19 normally check the mail.

15:46 20 Q. Who does?

15:46 21 A. Nick or his mom.

15:46 22 Q. Does Nick currently own a Ferrari?

15:46 23 A. No.

15:46 24 Q. He used to?

15:46 25 A. Yes.

15:46 1 Q. What happened to the Ferrari?

15:46 2 A. Sold it.

15:46 3 Q. When?

15:46 4 A. I'm not sure. I think around the first of
5 March. Maybe earlier than that.

15:46 6 Q. Around the same time he decided to try and
7 sell the Ducati motorcycle you talked about earlier?

15:47 8 A. I don't know. I really can't say. I
9 don't know.

15:47 10 Q. Do you know what triggered the decision to
11 sell the Ferrari?

15:47 12 MR. HARPER: Objection: Form.

15:47 13 A. No.

15:47 14 Q. You never discussed it with him?

15:47 15 A. Discussed what?

15:47 16 Q. Selling the Ferrari.

15:47 17 A. Yeah, we discussed selling it.

15:47 18 Q. What did he say about it?

15:47 19 A. He just wasn't driving it that much and he
20 wanted to sell it so that we could do more things
21 together.

15:48 22 Q. Such as what?

15:48 23 MR. HARPER: Objection: Form.

15:48 24 A. We didn't talk about specific things.

15:48 25 Q. He was selling it for the money is your

94

1 understanding?

15:48 2 A. No. My understanding was that he wanted
3 to do — he wasn't driving it and we could do more
4 things together if there weren't such high payments
5 for the Ferrari.

15:48 6 Q. Do you know what the payments were on the
7 car?

15:48 8 A. No, I do not.

15:48 9 Q. Did he own any other Ferraris during the
10 time that you've known him?

15:48 11 A. Yes.

15:48 12 Q. When was that?

15:48 13 A. When I first met him, he had a Ferrari,
14 and a few months later he basically traded it for
15 the last one he had, which he sold.

15:49 16 Q. How much did he get for the one that he
17 sold in approximately March of '99?

15:49 18 A. He had — all he had was equity in it. I
19 don't know how much he got. I mean, he had equity
20 that he carried over from car to car. I don't know
21 the exact amount of anything.

15:49 22 Q. Do you know the approximate amount?

15:49 23 A. No.

15:49 24 Q. Did he ever own a Lamborghini during the
25 time you knew him?

95

15:49 1 A. No.

15:49 2 Q. Did he buy a lot of furniture during the
3 time you knew him?

15:49 4 A. He bought some furniture, yes.

15:49 5 Q. Where did he buy furniture from?

15:49 6 A. Cantoni.

15:50 7 Q. Cantoni?

15:50 8 A. Yes.

15:50 9 Q. How did he pay for it?

15:50 10 A. I don't know.

15:50 11 Q. Did he use a credit card?

15:50 12 MR. HARPER: Objection: Form.

15:50 13 A. I don't know.

15:50 14 Q. Did you ever see him use his EDS credit
15 card for personal purchases?

15:50 16 A. No.

15:50 17 Q. Did you ever see him use his EDS credit
18 card?

15:50 19 A. I didn't know he had an EDS credit card,
20 so no.

15:50 21 Q. Did he use American Express credit cards?

15:50 22 A. When?

15:50 23 Q. For purchases such as the purchases of
24 furniture.

15:50 25 A. I don't know.

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15:50 1 Q. Did he use an American Express credit card
2 ever?

15:50 3 A. I don't know. He may have.

15:50 4 Q. Do you have any recollection of him ever
5 using an American Express credit card that you saw?

15:50 6 A. Yes, he may have. I'm not positive. I
7 didn't — I'm not — I don't know.

15:51 8 Q. Other than the bicycles that Nick claimed
9 that Vicki Yacovany had given to him, are you aware
10 of any other bicycles owned by him?

15:51 11 A. I don't know which bicycles specifically
12 were given by Vicki Yacovany or by Corima or by any
13 other management. I don't know any specifics on
14 that.

15:51 15 Q. Do you know which bicycles —

15:51 16 A. The only specific I can tell you — back
17 to that question.

15:51 18 Q. Sure.

15:51 19 A. At the national championships in July of
20 last year, Corima presented a Fox Frame bike to Nick
21 in front of everybody that was out there. It was
22 specifically for Nick. It was built specifically
23 for him. That's the only thing I can state for
24 sure.

15:52 25 Q. Who from Corima gave Nick this Fox Frame

97

1 bicycle?

15:52 2 A. Pierre.

15:52 3 Q. Pierre Martin?

15:52 4 A. Yes.

15:52 5 Q. What did he say when he gave it to him?

15:52 6 A. He presented it to him in front of the
7 crowd. I don't remember exactly what he said, but
8 he presented it in front of the whole crowd that was
9 out there at the national championships.

15:52 10 Q. But you don't recall what he said?

15:52 11 A. Not exactly. I mean, he doesn't really
12 speak English or that good of English, so I'm not
13 sure. I do know that they spent a long time making
14 it specifically for him and he was real excited
15 about presenting it to him that night.

15:53 16 Q. You know that who spent a lot of time
17 making it for him?

15:53 18 A. Corima.

15:53 19 Q. How do you know that?

15:53 20 A. I heard them talking about it.
15:53 21 Q. You heard who talking about it?
15:53 22 A. Pierre and Roger and I'm not sure who
23 else. Maybe it was Brett; maybe it was Skip. I'm
24 not sure who else. I can't remember who was talking
25 about it.

98

1 But Nick didn't know they were going
2 to present it to him. Everybody knew but Nick and
3 they told me, like, right before it was going to
4 happen, and so they were just talking about how
5 excited Pierre was to present him with this bike
6 that they worked so hard on and made specially for
7 him.

8 That's basically what was told to me
9 as they were getting ready to present it, because
10 they were letting everyone know except for Nick.
11 Not everyone, but me and a couple of people.

15:54 12 Q. This is a track bicycle?

15:54 13 A. Yes. It's called a Fox Frame.

15:54 14 Q. I'm sorry?

15:54 15 A. A Fox Frame.

15:54 16 Q. I'm not very knowledgeable on bicycles,
17 obviously. Is that a single — for a single rider,
18 not a tandem?

15:54 19 A. Right.

15:54 20 Q. Was this the bicycle that — a bicycle he
21 had ridden before or it was new?

15:54 22 A. No, it was new when it was presented to
23 him.

15:55 24 Q. Never ridden by him before?

15:55 25 A. No.

99

15:55 1 Q. Other than the Ferrari and the Ducati, has
2 Nick tried to sell any other property within the
3 last six months that you're aware of?

15:55 4 A. No.

15:55 5 Q. Has he made any gifts of any property, and
6 I mean real or personal property, in the last six
7 months other than the gifts to you that you've
8 previously identified?

15:55 9 A. No.

15:55 10 Q. Does Nick have any family other than his
11 mother?

15:55 12 A. Yes.

15:55 13 Q. Who?

15:55 14 A. His sister.

15:55 15 Q. Where is his sister at?

15:55 16 A. Alabama, I believe.

15:55 17 Q. What's her name?

15:55 18 A. Suzanne.

15:55 19 Q. And her last name?

15:56 20 A. I'm not sure what her last name is. I
21 can't recall. I can't recall what her last name is.
22 She's married.

15:56 23 Q. Whereabouts in Alabama?

15:56 24 A. That I can't remember either.

15:56 25 Q. Has he — sorry.

15:56 1 A. I've been told; I can't remember right

2 now.

15:56 3 Q. Has he made any gifts to his mother or put

4 any property in his mother's name in the past six

5 months that you're aware of?

15:56 6 A. No.

15:56 7 Q. Has made any gifts to his sister or put

8 any property in his sister's name in the last six

9 months that you're aware of?

15:56 10 A. No.

15:56 11 Q. Any close personal friends of Nick that

12 you're aware of?

15:57 13 A. You mean does he have any close personal

14 friends?

15:57 15 Q. Other than you.

15:57 16 A. Yes.

15:57 17 Q. Who?

15:57 18 A. Andy Davis.

15:57 19 Q. Anybody else?

15:57 20 A. Not that I'm aware of. I mean, does he

21 have friends? Yes. Do I know —

15:57 22 Q. I mean close personal friends.

15:57 23 A. I don't know. Andy's the only really

24 close friend that I know of.

15:57 25 Q. Where does he live?

15:57 1 A. Frisco.

15:57 2 Q. Has Nick made any gifts to Andy Davis in

3 the last six months that you're aware of?

15:57 4 A. No.

15:57 5 Q. Has Nick put any property, real or
6 personal, in the name of Andy Davis in the last six
7 months that you're aware of?

15:57 8 A. No.

15:57 9 Q. Is Nick paying your attorneys fees?

15:58 10 A. Yes.

15:58 11 Q. When did he do that?

15:58 12 A. I don't know.

15:58 13 Q. How do you know he's paying your attorneys
14 fees?

15:58 15 A. Well, I guess I don't know.

15:58 16 Q. Why do you assume that he is?

15:58 17 A. Well —

15:58 18 MR. HARPER: I think she's sort of
19 stuck here, because the answer is I told her not to
20 tell —

15:58 21 MS. RIES: Okay.

15:58 22 MR. HARPER: If she's giving you that
23 look, she's kicking me, saying, aren't you supposed
24 to object here.

15:58 25 Q. Other than conversations with your

1 attorney, is there any other way you know whether

2 Nick Chenoweth is paying your attorneys fees?

15:58 3 A. No.

15:58 4 Q. Have you ever seen Nick buying or picking
5 up bicycling equipment for Team EDS and paying for
6 it with cash or his personal checks?

15:59 7 A. I'm sorry?

15:59 8 Q. Have you ever seen Nick picking up Team
9 EDS equipment from any vendor?

15:59 10 A. No.

15:59 11 Q. Have you ever seen him arranging for the
12 purchase of any Team EDS equipment with any vendor?

15:59 13 A. No.

15:59 14 Q. Have you ever heard of him engaged in any
15 business discussions concerning the purchase or
16 delivery or payment for any Team EDS equipment with
17 any vendor?

15:59 18 A. No.

15:59 19 Q. Have you ever heard him engage in any
20 conversations regarding payments to EDS employees
21 with any vendor?

15:59 22 A. No.

15:59 23 Q. And by EDS employees, I'm including Team
24 EDS employees and any other EDS employee. Did you
25 understand that in the question?

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16:00 1 A. No, I didn't understand that exactly, but
2 it doesn't change my answer.

16:00 3 Q. Did you ever see Nick deliver in any way
4 payment to any EDS vendor?

16:00 5 A. No.

16:00 6 Q. Did you ever see him receive any documents
7 from any Team EDS vendor?

16:00 8 A. No.

16:00 9 Q. You work at Richardson Bike Mart now,
10 correct?

16:00 11 A. Yes.

16:00 12 Q. When somebody buys something from
13 Richardson Bike Mart, what sort of receipt do they
14 get?

16:00 15 A. It's printed out on the computer — I mean
16 on the cash register. A receipt comes out, itemized
17 receipt and how much it was. If they paid for it by
18 credit card, then they also get a credit card
19 receipt.

16:01 20 Q. How long have you been doing business at
21 Richardson Bike Mart, going in there and getting
22 clothing or food or other bicycle paraphernalia?

16:01 23 A. Since approximately November of '96, I
24 believe. November '96.

16:01 25 Q. And the receipts that you've seen or that

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1 you've received have always been these computer-
2 generated receipts from Richardson Bike Mart?

16:05 3 A. Yes.

16:05 4 Q. Ever seen a handwritten receipt from
5 Richardson Bike Mart?

16:05 6 A. No, nothing other than a special order
7 form.

16:05 8 Q. That's not a receipt, right?

16:05 9 A. Right.

16:05 10 Q. What is a special order form?

16:05 11 A. If someone comes in and they want a
12 cycling shoe and we don't have their size, we can
13 special-order their size.

14 (Exhibit No. 3 marked)

16:05 15 Q. Is this an internal Richardson Bike Mart
16 document, special order form?

16:05 17 A. Yes.

16:05 18 Q. It's a way for Richardson Bike Mart to
19 keep track of things that need to be ordered for a
20 specific customer or other customer requests?

16:05 21 A. It's how they — like if someone orders a
22 pair of — wants a pair of cycling shoes and we
23 don't have their size, we can order that size for
24 them, and I would assume that this special order
25 form is how — I don't really know how they order

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1 the things, but it has to be on one of those special
2 order forms in order for the order to take place to
3 get whatever it is they want. Did that make sense?

16:05 4 Q. I think so. Is it your understanding that
5 a special order form is used internally within
6 Richardson Bike Mart to write down the fact that
7 somebody wants to order something and then to have
8 that order actually take place by Richardson Bike
9 Mart with the supplier of the shoes or whatever it
10 is?

16:07 11 A. Yes.

16:07 12 Q. In your experience, is this special order
13 form ever used to indicate purchase and payment for
14 a piece of merchandise from Richardson Bike Mart?

16:07 15 A. Well, I think, if I'm not mistaken, if you
16 special-order something — well, there's two ways
17 you can do it. Okay. I'm sorry. Ask the question
18 again. I don't want to not answer, but there's two

19 ways you can special-order.

20 You can special-order something for
21 them, and then if they don't like it after they get
22 it or it doesn't fit right, they don't have to pay
23 for it.

24 There are occasions when, if they
25 special-order something they're really going to get

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1 and keep, they could pay for it and it would be
2 written down as paid on that special order form.

16:07 3 Q. Would there always be a receipt generated
4 by the computer to show that they paid for it?

16:07 5 A. Yes.

16:07 6 Q. So the special order form would not be the
7 receipt given to the customer to show that they paid
8 for it. They'd get the computer-generated receipt
9 to show that they paid for it, correct?

16:07 10 A. Yes.

16:07 11 Q. Exhibit 3 is an example of a special order
12 form used by Richardson Bike Mart, correct?

16:07 13 A. I guess it's one. I just know it by its
14 color. Might be silly, but it's a green order form.
15 And this may be the same one I'm talking about.
16 There may be another kind for, say, hardware
17 bicycles. There might be another kind.
18 I'm familiar with the kind used in my
19 area of sales, so it could be one and the same; I'm
20 not sure.

16:07 21 Q. The original of the special order form as
22 you know it would be green?

16:07 23 A. Right. Well, the copy we keep. Let's
24 see. I think it's a carbon copy. And of course,
25 one piece is sent to order and then one is held and

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1 put on it when the item comes in, so I'm not sure if
2 both sides are green or just the one that's put on
3 the item once it's received.

16:07 4 Q. Is any portion of the form commonly given
5 to the customer?

16:07 6 A. See, I've not done them personally, so I
7 would assume there's a copy given to the customer,
8 copy sent to get it ordered, and maybe that same
9 copy is put on the item once it's — I'm not sure
10 how many copies there are.

16:07 11 Q. You don't know?

16:07 12 A. I'm not sure.

16:07 13 Q. Do you recognize the handwriting on
14 Exhibit 3?

16:07 15 A. That's Nick's signature.

16:07 16 Q. Where it says customer name in the square
17 for customer name. Underneath that square? I'm
18 sorry.

16:07 19 A. Where it says customer signature, that's
20 Nick's signature.

16:07 21 Q. Do you recognize any other handwriting on
22 there?

16:07 23 A. I can't say that I do, no.

16:07 24 Q. Are you aware of any reason why a
25 Richardson Bike Mart customer would be filling out a

1 special order form as opposed to a Richardson Bike

2 Mart employee filling out the special order form?

16:07 3 A. Not that I'm aware of.

16:07 4 MR. HARPER: I know I'm trying to

5 keep it as long as possible, but I did have a

6 partner stick his head in and ask me to drop by.

7 When we get to a good stopping point —

16:07 8 MS. RIES: Okay.

16:07 9 Q. Are you aware of any conversations Nick is

10 having with other potential sponsors, bicycling

11 sponsors?

16:07 12 A. Am I aware of any conversations with

13 sponsors?

16:07 14 Q. Or deals with sponsors?

16:07 15 A. No.

16:07 16 Q. Are you currently riding the purple Corima

17 that's in your possession?

16:07 18 A. No.

16:07 19 Q. Where is it?

16:08 20 A. It's at our house.

16:08 21 Q. On Chalfont?

16:08 22 A. Yes.

16:08 23 Q. Are you currently riding a bicycle?

16:08 24 A. No.

16:08 25 Q. You don't have a bicycle to ride?

16:08 1 A. No, I'm not currently riding one.

16:08 2 Q. Well, not right this second, sitting here

3 at this table. I understand.

16:08 4 A. I don't mean that. I'm currently not — I

5 haven't had access to the purple bicycle to ride on

6 the track, so I don't have any other track bike to

7 ride at this time.

16:08 8 Q. Do you have access to a bike that's been

9 loaned to you from someone else to ride, either on

10 the track or at training?

16:08 11 A. Yes.

16:08 12 Q. What's that?

16:08 13 A. Road bike.

16:08 14 Q. Loaned to you by whom?

16:08 15 A. Jim Martin.

16:09 16 Q. Who is Jim Martin?

16:09 17 A. He was a coach at one time for Team EDS

18 and a friend of Nick's.

16:09 19 Q. What bicycle has he loaned you?

16:09 20 A. A road bicycle.

16:09 21 Q. What brand?

16:09 22 A. I'm not sure.

16:09 23 Q. What color was it?

16:09 24 A. Black.

16:10 25 Q. Do you know where he got it from?

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16:10 1 A. No.

16:10 2 Q. Do you know who owns it?

16:10 3 A. No.

16:10 4 Q. What did he say to you when he loaned it

5 to you?

16:10 6 A. I don't know. I can use it.

16:10 7 Q. I'm sorry. What?

16:10 8 A. I can use it. I don't know exact words.

16:10 9 Q. When did he loan it to you?

16:10 10 A. I don't know exactly.

16:10 11 Q. Do you know approximately?

16:10 12 A. In the last couple months.

16:11 13 Q. Since the lawsuit was filed?

16:11 14 A. No. Before that. I'm not sure when.

16:11 15 Q. Did you ever meet Vicki Yacovany
16 personally?

16:11 17 A. No.

16:11 18 Q. Did you ever talk to John Harris
19 personally?

16:11 20 A. Yes.

16:11 21 Q. When?

16:11 22 A. I don't know. I met him at Texas Racing
23 Works. He was in there getting a mountain bike and
24 I met him.

16:11 25 Q. I'm sorry?

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16:11 1 A. He was in there getting a mountain bike
2 from Texas Racing Works. I don't know exactly when
3 it was. I just met him.

16:12 4 Q. Did you discuss Team EDS or EDS equipment
5 or gifts of cycling equipment to Nick or any of
6 those kinds of topics with Mr. Harris?

16:12 7 A. Did I discuss it with John Harris?

16:12 8 Q. Yes.

16:12 9 A. No.

16:12 10 Q. Did you hear him discuss any of those
11 topics?

16:12 12 A. No.

16:12 13 Q. Then or at any other time.

16:12 14 A. No.

16:12 15 Q. When I asked if you ever met Vicki
16 Yacovany, did you ever have any conversation with
17 her or ever hear her speak in any way, shape, or
18 form?

16:12 19 A. No.

16:12 20 Q. Have you ever seen any writing whereby
21 Vicki Yacovany or anyone else from EDS said that
22 they were giving Nick Chenowth any bicycle
23 equipment?

16:12 24 A. No.

16:12 25 Q. Have you ever seen any writing purporting

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1 to be from anyone at EDS other than Nick Chenowth?

16:13 2 MR. HARPER: Objection: Form.

16:13 3 A. Repeat that, please.

16:13 4 Q. Have you ever seen any written document
5 which it's your understanding came from EDS other
6 than a document generated by Nick Chenowth? Do you
7 understand what I'm saying?

16:13 8 A. No.

16:13 9 Q. Have you ever seen any documents from EDS?

16:13 10 A. What kind of documents?

16:13 11 Q. Letters, forms, expense reimbursements,
12 checks, anything else from EDS.

16:13 13 A. Not that I'm aware of, no. I mean — I'm

14 sure I've seen some kind of letterhead or something
15 from EDS, but I haven't seen any specific documents
16 that you're asking about.

16:13 17 Q. You've never seen anything from anyone at
18 EDS that purports to give away bicycles to you or to
19 Nick Chenoweth or anybody else?

16:14 20 A. No.

16:14 21 Q. Did you ever meet Les Alberthal?

16:14 22 A. No.

16:14 23 Q. Never talked to or heard any conversations
24 to which Les Alberthal was a party?

16:14 25 A. No.

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16:14 1 Q. Never seen any correspondence or other
2 documents purporting to be from Les Alberthal?

16:14 3 A. No.

16:14 4 Q. Did Nick ever tell you that Vicki Yacovany
5 or John Harris or Les Alberthal had authorized him
6 to create false documents and submit them to EDS for
7 reimbursement by EDS?

16:14 8 A. Could you repeat that, please?

16:14 9 Q. Yes. Did Nick Chenoweth ever tell you that
10 Vicki Yacovany or John Harris or Les Alberthal
11 authorized him to create false documents and submit
12 them to EDS for him to be reimbursed by EDS based on
13 false documents?

16:14 14 A. No.

16:14 15 Q. Did Nick Chenoweth ever tell you that Les
16 Alberthal or Vicki Yacovany or John Harris
17 authorized him to have Texas Racing Works create

18 false invoices and then give him the cash that Texas

19 Racing Works received from those false invoices?

16:16 20 A. No.

16:16 21 Q. Did Nick Chenowth ever tell you that he

22 gave Marty Nothstein cash payments that were

23 supposedly from EDS?

16:16 24 A. No.

16:16 25 Q. Other than the conversation you've already

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1 told me about or the conversations you've already

2 told me about, has Nick Chenowth told you anything

3 else about the facts underlying this lawsuit?

16:16 4 MR. HARPER: Objection: Form.

16:16 5 Q. Do you understand my question?

16:16 6 A. No, not — no.

16:16 7 Q. You've told me that he said he was — Nick

8 told you in an April 23rd conversation that he was

9 authorized to do everything and that it was business

10 as usual, correct?

16:16 11 A. Yes.

16:16 12 Q. Has he ever told you anything else about

13 his business practices or the supposed authorization

14 he had to engage in the transactions that form the

15 basis of this lawsuit?

16:16 16 A. You're adding more to this question, and

17 I'm not real clear on exactly what you're asking.

16:16 18 Q. You had one conversation with Nick

19 Chenowth on April 23rd where he talked about his

20 business practices and how he was authorized to

21 engage in them and that they were business as usual,

22 correct?

16:16 23 A. Yes.

16:16 24 Q. Have you had any other conversations with
25 Nick Chenoweth concerning those same topics?

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16:17 1 A. Yes.

16:17 2 Q. Did he tell you — what did he tell you
3 about his business practices in those other
4 conversations?

16:17 5 A. Same thing.

16:17 6 Q. He didn't specifically discuss the fact
7 that he received cash from EDS vendors?

16:17 8 A. No.

16:17 9 Q. He didn't specifically tell you that he
10 submitted false expense reimbursement forms and got
11 money from EDS?

16:17 12 A. No.

16:17 13 Q. Is this the first you've ever heard of
14 that?

16:17 15 A. Heard of what?

16:17 16 Q. Those sorts of activities by Nick
17 Chenoweth.

16:17 18 MR. HARPER: Objection to form.

16:17 19 Q. Other than in conversation with your
20 attorney.

16:17 21 A. Nick didn't receive any cash from any of
22 his vendors.

16:17 23 Q. How do you know?

16:17 24 A. He never told me he received any cash from
25 any of his vendors.

16:17 1 Q. So you don't know whether —

16:17 2 A. You're asking me if he received cash from
3 these vendors.

16:18 4 Q. Not at all. I'm asking you: Did he tell
5 you anything about receiving cash from vendors?

16:18 6 A. No.

16:18 7 Q. And is this the first you've heard about
8 any possibility that he received cash from vendors?

16:18 9 THE WITNESS: Is that not —

16:18 10 Q. Other than in a conversation with your
11 attorney.

16:18 12 MR. HARPER: He's not asking about —

16:18 13 A. No.

16:18 14 Q. No, you've heard about it before?

16:18 15 A. Before this moment in time right here?

16:18 16 Q. Right, other than in a conversation with
17 your attorney.

16:18 18 A. I don't —

16:18 19 MR. HARPER: She's asking you —
20 besides you and me talking about this, assuming we
21 have, she's wanting to know if anybody else ever
22 told you that EDS was accusing Nick of taking money
23 from a vendor or receiving cash from a vendor.

16:19 24 Q. Or that he had received cash from a
25 vendor.

16:19 1 MR. HARPER: Right.

16:19 2 Q. Anything about that topic.

16:19 3 A. Yes, I've heard things about that topic.

16:19 4 Q. From who?

16:19 5 A. Nick.

16:19 6 Q. Anyone else?

16:19 7 A. Other people have asked what's going on or
8 have questioned what's happened or what's going on
9 with Nick and EDS, so if that's what you mean...

16:20 10 Q. Has anybody told you that they have any
11 information about Nick Chenoweth receiving or not
12 receiving money from vendors?

16:20 13 A. No.

16:20 14 Q. What did Nick tell you about receiving —
15 or the allegations that he had received money from
16 vendors to EDS?

16:20 17 A. He never told me he received any money
18 from any vendors.

16:20 19 Q. What did he tell you about the topic of
20 receiving money from vendors to EDS?

16:20 21 A. It's basically what I've already told you,
22 that everything he did approving — I mean using
23 receipts to pay vendors cash — was all approved by
24 his management and it was all the same way he'd done
25 business for the last 10-plus years.

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16:21 1 Q. So he claimed that he was doing this since
2 the beginning of his employment at EDS?

16:21 3 A. No, he didn't claim he'd been doing it
4 since the beginning. He just said it — he'd always

5 done business this way. I don't know what he meant

6 by that.

16:21 7 Q. And what was the way he said he'd always

8 done business?

16:21 9 A. I just told you.

16:21 10 Q. Creating false documents and getting cash

11 to pay vendors?

16:21 12 A. Everything that he did was approved —

16:21 13 Q. Did he tell you —

16:21 14 A. — and he — everything he did was

15 approved and he basically did things the way he was

16 told to do them or — I don't know any specifics

17 here. I think I've lost the question again.

16:22 18 Q. Did he tell you he created false

19 documents?

16:22 20 A. Yes, after he was fired, he told me — he

21 explained to me what he was accused of and what he

22 actually did.

16:22 23 Q. And he said that what he actually did was

24 create false documents?

16:22 25 A. Yes.

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16:22 1 Q. What kinds of false documents did he tell

2 you he created?

16:22 3 A. Invoices from Texas Racing Works to pay

4 Marty Nothstein.

16:22 5 Q. Anything else?

16:22 6 A. I believe he said he paid vendors with

7 cash. That's all I know. He paid vendors with

8 cash. I don't know how he did it. He didn't

9 explain. Nothing was explained in detail. They

10 were general statements.

16:23 11 Q. Did he say what vendors he was paying with

12 cash?

16:23 13 A. No.

16:23 14 Q. Did he tell you he created false documents

15 relating to Richardson Bike Mart?

16:23 16 A. He did not tell me specifically that. He

17 just said vendors — he didn't ever state to me

18 specifically that I remember — I don't remember him

19 saying anything specific about Richardson Bike Mart.

20 Only specific that I can remember is Texas Racing

21 Works.

16:24 22 Q. Did he tell you that he had personally

23 received money from Texas Racing Works? Not money

24 that was sent to Marty but that he received.

16:24 25 A. No.

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16:24 1 Q. Are you now aware that that's true?

16:24 2 MR. HARPER: Objection: Form.

16:24 3 A. Am I aware that what's true?

16:24 4 Q. That he, Nick Chenoweth, received money

5 from Texas Racing Works.

16:24 6 A. No.

16:24 7 Q. You've never seen any cashier's checks

8 that he received from Texas Racing Works —

16:24 9 A. No.

16:24 10 Q. — with his signature on the back?

16:24 11 MR. HARPER: Objection: Form.

16:24 12 A. No.

16:24 13 MR. HARPER: Are we at a good
14 stopping point?
16:24 15 MS. RIES: Yes. You can take a break
16 if you want to.
17 (Recess taken 4:24-4:38)
16:38 18 Q. You have a membership at the EDS Super
19 Dome track?
16:38 20 A. I was supposed to have one.
16:38 21 Q. Did you pay for one?
16:38 22 A. I thought I had one. Juanita called it to
23 my attention that they couldn't find my membership
24 so I was supposed to redo the whole thing and I
25 never did, because I haven't been out to the track.

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16:38 1 Q. Did you pay for one?
16:38 2 A. I haven't regone over everything and given
3 her the money because all this happened. I hadn't
4 been going out there and I never took care of it.
16:38 5 Q. Did you ever pay for a membership at the
6 track in Frisco?
16:38 7 A. No.
16:38 8 Q. But you used the track in Frisco until the
9 point when Nick Chenowth was fired from EDS,
10 correct?
16:39 11 A. Yes.
16:39 12 Q. Is it your understanding that only members
13 of the track are supposed to use the track?
16:39 14 A. Well, I guess I didn't realize that only
15 members could use the track. But I thought I had a
16 membership. Nick told me I'd be getting a

17 membership in the mail along with his, and I never
18 received it.

19 Juanita brought that to my attention.

20 I told her I would take care of it, and I have not
21 taken care of it yet.

16:39 22 Q. Was it your understanding that Nick was
23 going to pay for your membership?

16:39 24 A. Yes. I thought he already had. He
25 thought he already had also.

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16:39 1 Q. He told you that?

16:39 2 A. Yes.

16:39 3 Q. Is it your understanding that he paid for
4 his own membership at the track?

16:39 5 A. I don't know.

16:39 6 Q. Did he tell you that?

16:39 7 A. No.

16:39 8 Q. When did Juanita tell you that you didn't
9 have a membership at the track?

16:40 10 A. I don't know.

16:40 11 Q. Was it after the lawsuit was filed?

16:40 12 A. I don't know. It could have been after.
13 I don't recall the exact date.

16:40 14 Q. Sometime after Nick was fired?

16:40 15 A. Yes.

16:40 16 Q. Has Nick ridden any of the Corima bicycles
17 in his possession since the original court orders
18 were entered in this case and until the modified
19 orders were entered on June 7th, I believe, or 8th?
20 Do you understand the question?

16:40 21 A. No.

16:40 22 Q. The original TRO in this case was

23 entered —

16:40 24 MR. HARPER: I think it was May 28th,

25 wasn't it? Was it the 26th?

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16:41 1 MS. RIES: I think it was May 26th.

2 Yes, May 26th.

16:41 3 Q. From May 26th to the date of the amended

4 temporary restraining order in the case, which was,

5 I believe, June 7th, 8th, or 9th, somewhere in

6 there, are you aware of whether Nick Chenoweth rode

7 any of the Corima bicycles in his possession?

16:41 8 A. Between those two times?

16:41 9 Q. Correct.

16:41 10 A. No.

16:41 11 Q. Do you know that he did not ride his

12 bicycle — any of the Corima bicycles between that

13 time period?

16:41 14 A. Not that I'm aware of.

16:42 15 Q. And you have not ridden the Corima

16 bicycle, the purple one in your possession, since

17 that order was entered on approximately May 26th?

16:42 18 A. That's correct.

16:42 19 Q. Have you had any discussions with Trina

20 Money Penny since Nick was fired?

16:42 21 A. No.

16:42 22 Q. Did you ever get a message by — not

23 necessarily directly by Trina Money Penny but at her

24 business?

16:42 25 A. No.

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16:42 1 Q. Were you ever with Nick when he got
2 messages there?

16:42 3 A. No.

16:42 4 Q. Have you ever been to Trina Moneyppenny's
5 place of business?

16:42 6 A. Yes.

16:42 7 Q. For what purpose?

16:42 8 A. I might have — I think I've, like, met
9 Nick up there before, went in and said hi to Trina.
10 I haven't — I don't know for what reason. None —
11 nothing in particular.

16:43 12 Q. Are you aware that Nick sold one of the
13 Corimas that he used as a member of Team EDS?

16:43 14 A. No.

16:43 15 Q. You've never heard that?

16:43 16 A. No.

16:43 17 Q. Have you ever heard of anybody other than
18 Nick riding one of the Corimas that he had
19 previously used?

16:43 20 A. Could you repeat that?

16:43 21 Q. Sure. Are you aware of anybody other than
22 Nick Chenoweth riding one of the Corimas that Nick
23 had previously used?

16:43 24 A. The Corima — make sure I understand this
25 correctly. The Corimas that were built up

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1 specifically for Nick, am I aware of anyone else

2 riding them?

16:44 3 Q. Correct.

16:44 4 A. No.

16:44 5 Q. So you're not aware of the fact that the

6 Corima that Skip Cutting rides was previously ridden

7 by Nick Chenoweth?

16:44 8 A. No.

16:44 9 Q. Have you heard anything about what Chris

10 Carlson supposedly knows about the facts of this

11 lawsuit?

16:44 12 MR. HARPER: I'm going to object to

13 the extent this calls for any information protected

14 by the attorney-client privilege.

16:44 15 Q. Other than conversations you had with your

16 attorney.

16:44 17 A. Could you repeat the question?

16:44 18 Q. Yes. Do you have any information about

19 what Chris Carlson supposedly knows about the facts

20 underlying this lawsuit or the counterclaims by Nick

21 Chenoweth in the lawsuit other than through

22 conversations with your attorney?

16:45 23 MR. HARPER: Objection: Form.

16:45 24 A. Do I know — I'm sorry. One more time.

16:45 25 Q. Let me rephrase it. Do you have any

1 information about what knowledge Chris Carlson may

2 have concerning facts relating to this lawsuit?

16:45 3 A. Do I have —

16:45 4 MR. HARPER: Outside of conversations

5 with your attorney.

16:45 6 Q. Yes.

16:45 7 A. Well, I don't know. He did ride for Team

8 EDS, so I guess he knows — I still am not real

9 clear on the question.

16:46 10 Q. Okay.

16:46 11 A. I'm sorry.

16:46 12 Q. That's all right. Have you had any

13 discussions with Nick Chenoweth about information he

14 believes Chris Carlson has that would be relevant to

15 either the claims of EDS or the defenses or claims

16 by Nick Chenoweth in this lawsuit?

16:46 17 A. We've discussed Chris Carlson being on the

18 team. I mean, I knew Chris Carlson was on the team.

19 Nick has said — when I first met him and I started

20 meeting the team members, Nick and more than one

21 other person said that Chris Carlson was — thought

22 he was the best member on the team and he was

23 jealous at times about other riders, what they had

24 done, what they got for riding for the team.

16:47 25 Q. Other than Nick, who said that?

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16:47 1 A. Again, it's just comments, general

2 comments, about that. I'm not — I don't know

3 specifically what was said by who — exactly what

4 was said by who, but that's the general gist I got

5 from more than just Nick.

16:50 6 Q. Who else?

16:50 7 A. Almost everyone on the team at the time.

8 Trey Gannon, people associated with the team.

16:50 9 Q. Like who?

16:50 10 A. His wife, Amy.

16:50 11 Q. Trey's wife?

16:50 12 A. Yes. Jennifer.

16:50 13 Q. Jennifer Evans?

16:50 14 A. Yes. Again, I'm not for sure who said

15 what. I'm just trying to think of who made comments

16 about Chris in general.

16:50 17 Q. Who else made comments about Chris of the

18 sort that you've told me?

16:50 19 A. Brett Hydrick. There may be others. I

20 can't think of everyone right now. Carla Bland.

21 I'm just trying to think of — she wasn't on the

22 team at the time, but I used to work with Carla.

23 Gil Hatton. That's all I can think of at this time.

16:50 24 Q. Did anyone ever tell you or do you know

25 that Chris Carlson ever asked for any bicycling

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1 equipment or services that he wasn't entitled to as

2 a membership of Team EDS?

16:50 3 A. I don't know.

16:50 4 Q. You don't have any knowledge of that?

16:50 5 A. No.

16:50 6 Q. Did anyone ever tell you or do you know

7 whether Chris Carlson ever asked a vendor to create

8 false documents?

16:50 9 A. I don't know.

16:50 10 Q. Did anyone ever tell you or do you know

11 whether Chris Carlson ever created false documents

12 and submitted them to EDS?

16:51 13 A. I don't know.

16:51 14 Q. Do you know of any unethical or
15 inappropriate behavior by Chris Carlson?

16:51 16 A. I'm sorry. What?

16:51 17 Q. Do you know of or are you aware of, have
18 you ever heard of, any unethical or inappropriate
19 behavior by Chris Carlson?

16:51 20 A. Like what?

16:51 21 Q. Like lying to EDS about what he was doing,
22 like asking other people to lie for him, like
23 creating false documents, like taking money from EDS
24 vendors, anything else that would appear to be of
25 questionable ethical behavior.

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16:51 1 A. Not that I'm aware of.

16:52 2 Q. Have you ever heard of anything like that?

16:52 3 MR. HARPER: Objection: Form.

16:52 4 A. Not that I'm aware of.

16:52 5 Q. So the only EDS employee that you're aware
6 of who has created false documents is Nick Chenowth?

16:52 7 MR. HARPER: Objection: Form.

16:52 8 A. No. I mean, I don't know that Nick
9 actually created false documents himself.

16:52 10 Q. The only EDS employee that you're aware of
11 who either created false documents himself or asked
12 a vendor to do it for him is Nick Chenowth?

16:52 13 MR. HARPER: Objection: Form.

16:52 14 A. I don't even know that for sure.

16:52 15 Q. I thought you told me that he admitted

16 creating false documents.

16:52 17 MR. HARPER: Objection: Form.

16:52 18 A. I'm getting a little confused here what
19 your original question was.

16:52 20 MS. RIES: Can you read it back,
21 please?

22 (Record read)

16:53 23 MR. HARPER: Objection: Form.

16:53 24 A. He told me the false documents were
25 created in order to pay Marty Nothstein vendors cash

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1 for — he didn't tell me that he created them
2 himself. That's what you're asking. That's what
3 was misunderstood.

16:53 4 Q. Did he tell you that he had requested that
5 they be created, these false documents?

16:53 6 MR. HARPER: Objection: Form.

16:53 7 A. Yes.

16:53 8 Q. So Nick Chenoweth told you that he had
9 requested that false documents be created and
10 submitted to EDS?

16:54 11 A. He told me that in order to pay Marty
12 Nothstein — I've told you this before. He told me
13 that these documents were created in order to pay
14 Marty Nothstein so that no one else would know his
15 salary.

16 It was all approved. He told me he
17 paid cash to vendors, created receipts to pay cash
18 to vendors. I mean, I'm not saying anything new
19 here that I haven't already said.

16:54 20 Q. He told you he created receipts to pay
21 cash to vendors?

16:54 22 A. Or receipts were created. I mean, I don't
23 know if he actually hand-wrote them out himself or
24 someone else did, if that's what you're asking. I
25 don't know that specific.

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16:55 1 Q. He either created them or they were
2 created at his request or direction. Is that your
3 understanding?

16:55 4 MR. HARPER: Objection: Form.

16:55 5 A. Or someone else's request or direction to
6 him.

16:55 7 Q. With his knowledge?

16:55 8 A. Yes.

16:55 9 Q. And that he participated in it?

16:55 10 A. In some fashion or form, yes.

16:55 11 Q. Are you aware of any other EDS employee
12 who created or requested to be created or
13 participated in submitting to EDS these false
14 documents or any other false documents relating to
15 EDS?

16:55 16 MR. HARPER: Objection: Form.

16:55 17 A. I know he mentioned that there were other
18 people involved in this process. It wasn't just
19 him; there were other people involved in making this
20 process happen.

16:56 21 Q. And it was the people you mentioned
22 earlier: D'Rinda Taylor, Steve Walsh, Jim Travis?

16:56 23 A. Yes.

16:56 24 Q. Anyone else?

16:56 25 A. Again, the people were all aware: His

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1 boss, Vicki Yacovany, John Harris, Les Alberthal.

2 All those people were aware of what was going on

3 and — either aware or participated in.

16:56 4 Q. But not Chris Carlson?

16:56 5 A. Not that I'm aware of.

16:56 6 Q. That's not what he told you, correct? He

7 never told you that Chris Carlson knew about or was

8 in any way involved in the creation of false

9 documents in connection with Team EDS?

16:56 10 A. He might have said Chris knew about it.

16:56 11 Q. When did he say that?

16:56 12 A. I said he might have said that. And it

13 would have been after he got fired when he was

14 telling me that everyone knew about it.

16:56 15 Q. Did he say it?

16:57 16 A. I don't recall who all he said knew.

17 Those are the people I told you I could recall.

16:57 18 Q. You don't recall him saying that Chris

19 Carlson knew about it?

16:57 20 A. Well, he may have. He said several things

21 about Chris Carlson: Chris Carlson was involved in

22 things; Chris Carlson came to his office and asked

23 him things.

16:57 24 Q. Chris Carlson was involved in what things?

16:57 25 A. Asking him questions before he was

1 terminated. I don't know exactly.

16:57 2 Q. Do you know generally?

16:57 3 A. Just in his termination process and
4 ongoing investigation.

16:57 5 Q. He was identifying Chris Carlson as a
6 person he blamed for the fact that he got fired?

16:57 7 A. No, I didn't say that, nor did he say
8 that.

16:57 9 Q. Okay. What was he saying?

16:57 10 A. He was just giving me the facts of what
11 had happened and — I mean — okay. I'm not sure
12 I'm clear on what you're asking now, because you
13 were asking something else and now you're off on
14 another path here and I'm kind of confused.

16:59 15 Q. I'm asking about Chris Carlson and what
16 you have heard or seen about Chris Carlson in any
17 role that he may have played in the facts underlying
18 this lawsuit. What do you know about that?

16:59 19 MR. HARPER: Objection: Form.

16:59 20 A. I know a lot of things about that.

16:59 21 Q. Tell me.

16:59 22 A. Can you be a little more specific?

16:59 23 Q. No. You said you know lots of things, so
24 tell me about them, please.

16:59 25 MR. HARPER: Objection: Form.

16:59 1 A. I know that Chris Carlson is one of the
2 lawyers —

16:59 3 Q. Okay.

16:59 4 A. — at EDS that started getting involved in
5 Nick's group and what Nick's group was doing.

16:59 6 Q. Okay. The investigation?

16:59 7 MR. HARPER: Objection: Form.

16:59 8 Q. Is that what you're talking about, the
9 fact that —

16:59 10 A. No. I'm talking about his group and what
11 his group was doing at work when — before he was
12 fired, things that were going on.

16:59 13 Q. That Chris was looking at the Global
14 Sports Group?

16:59 15 A. Yes.

16:59 16 Q. Okay. What else?

16:59 17 A. He's part of the investigation now; he's
18 part of the lawsuit now.

16:59 19 Q. He's an attorney in the lawsuit now. Is
20 that what you mean by being part of the lawsuit now?

16:59 21 A. Yes.

16:59 22 Q. Okay. What else?

16:59 23 A. I don't know exactly everything that we
24 said. Those are general things that I can give you.
25 I don't — I can't recall anything else other than

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1 that right now at this time.

17:00 2 Q. Do you expect to be called as a witness
3 for the hearing that's currently scheduled on July
4 2nd?

17:00 5 MR. HARPER: I object to the extent
6 that's protected by the attorney-client privilege.

7 To the extent your information on
8 this is derived from conversations with an attorney,
9 I instruct you not to answer. If you have
10 information outside of that, feel free to answer.

17:00 11 A. I have no information outside of...

17:00 12 Q. Okay. Can you give me, please, your
13 parents' address and telephone number.

17:01 14 A. Can I give you what?

17:01 15 Q. Your parents' — well, give me their
16 names, please, your parents' names.

17:01 17 A. Pat Simmons.

17:01 18 Q. Is that your mother or your father?

17:01 19 A. Father.

17:01 20 Q. Okay. Where does he reside?

17:01 21 A. Mineral Wells.

17:01 22 Q. Do you have an address?

17:01 23 A. Route 1, Box 58.

17:01 24 Q. It's Mineral Wells, Texas?

17:01 25 A. Yes.

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17:01 1 Q. Do you have a phone number?

17:01 2 A. 940-325-3587.

17:01 3 Q. And what's your mother's name?

17:01 4 A. Sara Simmons.

17:01 5 Q. Does she have a different address?

17:01 6 A. No.

17:01 7 Q. And her phone number is also the same
8 then?

17:02 9 A. Yes.

17:02 10 Q. What's your driver's license number?

17:02 11 A. 10098802.
17:02 12 Q. Is that a Texas driver's license?
17:02 13 A. Yes.
17:02 14 Q. And your social security number?
17:02 15 A. 466-53-7247.
17:02 16 Q. Do you have any plans to move in the
17 foreseeable future?
17:02 18 A. No.
17:02 19 MS. RIES: Okay. I think we'll
20 recess the deposition at this time subject to —
21 Jeff, I didn't put this on the record, but we had an
22 agreement concerning redepositing Ms. Simmons at a
23 point where documents have been exchanged.
17:03 24 MR. HARPER: I think the agreements
25 can be worked out later.

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17:03 1 MS. RIES: Right.
17:03 2 MR. HARPER: I recognize that.
3 We'll reserve all questions to the
4 time of trial.
5 (Deposition recessed at 5:01 p.m.)
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1 DEPOSITION CHANGES

2 WITNESS NAME: CHRISTI LYNN SIMMONS

3 PAGE LINE CHANGE REASON

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1 I, CHRISTI LYNN SIMMONS, have read
2 the foregoing deposition and hereby affix my signature
3 that same is true and correct, except as noted above.

4

5

6

7

CHRISTI LYNN SIMMONS

8

9 THE STATE OF _____)

)

10 COUNTY OF _____)

11 Before me, _____, on this day
12 personally appeared CHRISTI LYNN SIMMONS, known to me
(or proved to me under oath or through
13 _____) [description of identity card
14 or other document]) to be the person whose name is
15 subscribed to the foregoing instrument and
16 acknowledged to me that they executed the same for the
17 purposes and consideration therein expressed.

18 Given under my hand and seal of office this
19 _____ day of _____, 19____.

20

21 _____
22 Notary Public in and for the
State of Texas

23

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23

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1 NO. 380-810-99
2 ELECTRONIC DATA SYSTEMS * IN THE DISTRICT COURT
CORPORATION, *
3 Plaintiff *
4 VS. * COLLIN COUNTY, TEXAS
5 NICHOLAS E. CHENOWETH *
Defendant * 380th JUDICIAL DISTRICT
6

7 ORAL DEPOSITION OF

8 CHRISTI LYNN SIMMONS

9 June 14, 1999

10 REPORTER'S CERTIFICATION

11 DEPOSITION OF CHRISTI LYNN SIMMONS

12 I, Lynn Brooks, Certified Shorthand Reporter

13 in and for the state of Texas, hereby certify to the

14 following:

15 That the witness, CHRISTI LYNN SIMMONS, was

16 duly sworn by the officer and that the transcript of

17 the oral deposition is a true record of the testimony

18 given by the witness;

19 That the deposition transcript was submitted

20 on June 22nd, 1999, to the witness or to the attorney

21 for the witness for examination, signature, and return

22 to me by July 13th, 1999;

23 That the amount of time used by each party

24 at the deposition is as follows:

25 MS. RIES - 3:16

MR. HARPER - no time

1 That pursuant to information given to the
2 deposition officer at the time said testimony was
3 taken, the following includes counsel for all parties
4 of record:

5 MS. CATHY RIES, Attorney for Plaintiff

6 MR. GEOFFREY HARPER, Attorney for Defendant

7 I further certify that I am neither counsel
8 for, related to, nor employed by any of the parties or
9 attorneys in the action in which this proceeding was
10 taken, and further that I am not financially or
11 otherwise interested in the outcome of the action.

12 Further certification requirements pursuant
13 to Rule 203 of the TRCP will be complied with after
14 they have occurred.

15 Certified to by me this 21st day of
16 June, 1999.

17

18

Lynn Brooks, Certified
Shorthand Reporter No. 871
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Dallas, Texas 75204
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e-mail: Info@dickmandavenport.com
www.dickmandavenport.com
My commission expires 12-31-00

23

24

25

2 The original deposition was/was not returned to
3 the deposition officer on _____;

4 If returned, the attached Changes and Signature
5 page contains any changes and the reasons therefor;

6 If returned, the original deposition was
7 delivered to Ms. Cathy Ries, Custodial Attorney;

8 That \$_____ is the deposition officer's
9 charges to the Plaintiff for preparing the original
10 deposition transcript and any copies of exhibits;

11 That the deposition was delivered in accordance
12 with Rule 203.3, and that a copy of this certificate
13 was served on all parties shown herein
14 on _____ and filed with the clerk.

15 Certified to by me this _____ day of
16 _____, 1999.

17

18

19 _____
Lynn Brooks, Certified
20 Shorthand Reporter No. 871
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21 3000 Carlisle, Suite 113
Dallas, Texas 75204
22 214-855-5100 800-445-9548
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www.dickmandavenport.com
23 My commission expires 12-31-00

24

25

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