

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
AT MARTINSBURG**

**SUSAN HAYWOOD,**

Plaintiff,

v.

**CIVIL ACTION NO. 2:05-CV-78  
(Judge Bailey)**

**USA CYCLING, INC, a  
non-resident corporation,**

Defendant.

**ORDER GRANTING MOTION FOR PARTIAL SUMMARY JUDGMENT  
ON BEHALF OF SUSAN HAYWOOD**

**I. Introduction**

On this day, the above-styled matter came before the Court for consideration of the Motion for Partial Summary Judgment on Behalf of Susan Haywood [Doc. 44] filed August 17, 2007. On August 31, 2007, the defendant, USA Cycling, Inc., filed its response in opposition [Doc. 46]. The plaintiff then filed a reply memorandum on September 11, 2007 [Doc. 47]. On March 5, 2008, this civil action was reassigned to District Judge John Preston Bailey [Doc. 54]. Having been fully briefed, the motion is now ripe for adjudication. For the reasons stated below, the motion [Doc. 44] is **GRANTED**.

**II. Statement of Facts and Procedural History**

The Union Cycliste Internationale, (“UCI”) is the worldwide governing body for cycling and serves as the association for national cycling federations. The defendant, USA Cycling, Inc. (“USA Cycling”) is a member of UCI and is the UCI-recognized “national federation” governing the sport of cycling in the United States. As such, USA Cycling is the

official cycling organization recognized by the United States Olympic Committee and is responsible for identifying, training, and selecting cyclists to represent the United States in the Olympic Games. The plaintiff, Susan Haywood, is a world-class mountain bike racer that USA Cycling nominated to be the sole female representative for the United States in the mountain bike event at the 2004 Summer Olympics in Athens, Greece. Shortly after receiving this nomination, her closest competitor, Mary McConneloug, filed a Demand for Arbitration claiming that she should be the nominee as opposed to Haywood because USA Cycling did not have the authority under the Selection Criteria to include fifteen (15) UCI points Haywood earned for the NORBA National Short Track Cross Country event, which took place on July 25, 2003, at Sand Point, Idaho (“the Sandpoint Race”).

The 2004 Selection Criteria for the female mountain bike competitor was as follows:

**Women’s Cross Country**

(a) Start Positions: Maximum of 3 start positions

(b) Automatic Nomination Criteria (in order of priority):

(i) Any athlete placing in the top-three (3) at the 2003 World Mountain Bike Championships, Lugano, SUI, August 31 — September 7, 2003 provided that athlete continues to demonstrate the ability to perform at a similar level based on performances in international UCI World Cup competition during the 2004 calendar year.

(ii) The top ranked rider on the UCI Mountain Bike rankings on July 12, 2004.

That year, no competitor qualified for automatic nomination under criterion (i) by placing in the top three (3) at the World Championships. Therefore, the Olympic nomination under criterion (ii) would be awarded to the cyclist with the highest UCI Mountain Bike

points tally.

Stephen Johnson, the current Chief Executive Officer of USA Cycling authored the Selection Criteria to be used in selecting members to the United States Olympic Team in the cycling disciplines for the 2004 Olympics. Using this criteria, USA Cycling selected Susan Haywood to represent the United States at the Olympic Games. In doing so, USA Cycling adjusted the UCI rankings as of July 12, 2004, to account for the July, 2003, Sandpoint Race. USA Cycling's decision to nominate Plaintiff Haywood was based on the fact that on July 12, 2004, according to USA Cycling's calculations, Ms. Haywood had 1,489 points. This tally included the fifteen (15) points from the Sandpoint Race. The second place finisher, Mary McConnelough, finished with 1,488 points.

On July 17th, 2004, Ms. McConnelough filed a demand for arbitration with the American Arbitration Association challenging USA Cycling's point calculation because on July 12th 2004, the official UCI Mountain Bike ranking showed Ms. McConnelough in the lead with 1,488 points versus Susan Haywood's 1,474 points.

The UCI Cycling Regulations, Part IV Mountain Bike Races, Chapter X, Regulation 10.11 relating to the transmission of race results, states as follows:

10.11 National Federations and organisers are required, immediately following any race, to transmit to the UCI offices by fax, the complete results on results sheets supplied in advance by the UCI. These must be signed by the UCI Chief Commissaire in attendance at the event. Should such information not be transmitted as indicated, the UCI Management Committee may exclude it from the UCI International Calendar, notwithstanding any other penalties provided for in the regulations.

Under this regulation, the UCI could not include the Sandpoint Race points in the UCI Point Calculation because USA Cycling failed to submit the results in the same calendar year in which Haywood's race occurred. UCI attempted to solicit these results from USA Cycling before this deadline. Indeed, on October 10, 2003, the UCI sent a fax message to Mr. Jim Ochowicz, who was President of USA Cycling, Inc., in which it listed numerous races including the Sandpoint Race for which they had not received race results. The results of the Sandpoint Race, however, were not timely submitted to UCI per its October 2003 request.

The time by which USA Cycling was to report the race results to UCI expired on December 31, 2003; USA Cycling did not ask the UCI to include the Sandpoint results until early 2004. Using the point total calculated by the UCI and not the point total calculated by USA Cycling, the Arbitrator declared that Ms. McConnelough would represent the United States in the Women's Cross Country Mountain Bike Race at the 2004 Summer Olympics.

### **III. Applicable Law**

#### **A. Summary Judgment Standard**

Under Fed.R.Civ.P. 56(c), summary judgment is appropriate if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show there is no genuine issue as to material fact and the moving party is entitled to judgment as a matter of law." The party seeking summary judgment bears the initial burden of showing the absence of any issues of material fact. ***Celotex Corp. v. Catrett***, 477 U.S. 317 (1986). However, as the United States Supreme Court noted in ***Anderson v. Liberty Lobby, Inc.***, 477 U.S. 242, 248 (1986), Rule 56(c) itself provides that "a party opposing a properly supported motion for summary judgment 'may not rest upon mere

allegations or denials of [the] pleading, but must set forth specific facts showing that there is a genuine issue for trial.” “The inquiry performed is the threshold inquiry of determining whether there is the need for a trial-whether, in other words, there are any genuine factual issues that properly can be resolved only by a finder of fact because they may reasonably be resolved in favor of either party.” *Id.* at 250 (See also ***Charbonnages de France v. Smith***, 597 F.2d 406, 414 (4th Cir.1979) (summary judgment "should be granted only in those cases where it is perfectly clear that no issue of fact is involved and inquiry into the facts is not desirable to clarify the application of the law") (quoting ***Stevens v. Howard D. Johnson Co.***, 181 F.2d 390, 394 (4th Cir.1950))).

Further, in reviewing the supported underlying facts, all inferences must be viewed in the light most favorable to the party opposing the motion. ***Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.***, 475 U.S. 574 (1986).

## **B. Negligence**

The West Virginia Supreme Court of Appeals has held that:

[i]n order to establish a prima facie case of negligence in West Virginia, it must be shown that the defendant has been guilty of some act or omission in violation of a duty owed to the plaintiff. No action for negligence will lie without a duty broken.”

Syl pt. 3, ***Aikens v. DeBow***, 208 W.Va. 486, 541 S.E.2d 576 (2000).

Further, the West Virginia Supreme Court has held:

The determination of whether a defendant in a particular case owes a duty to the plaintiff is not a factual question for the jury; rather the determination of whether a plaintiff is owed a duty of care by a defendant must be rendered

by the court as a matter of law. *Id.* at Syl. pt. 5. (citations omitted).

#### IV. Discussion

The Constitution of the UCI created a duty for USA Cycling, as a national federation, to timely transmit Susan Haywood's race results to UCI. That Constitution specifies that national federation members "shall comply with the Constitution and Regulations of the UCI, as well as all decisions taken in accordance therewith. Likewise, they shall have the Constitution, Regulations and decisions of UCI complied with by all persons concerned." Regulation 10.11 ("the Regulation"), which the UCI Constitution "incorporate[s] in[to] the corresponding regulations of the federations," states that "National Federations . . . are required, immediately following any race, to transmit to the UCI offices by fax, the complete results on results sheets supplied in advance by the UCI."

USA Cycling argues that an unwritten understanding of the reporting responsibility had been put in place and that it was not even aware of Regulation 10.11. Indeed, the defendant argues that the duty to report the race results was placed on the UCI Commissaire. This Court, however, is not concerned with the alleged "concurrent" duty, as such would not relieve USA Cycling of its own duty to Ms. Haywood. See ***Chandler v. Ntn'l R.R. Passenger Corp.***, 882 F.Supp. 533 (1995).

This Court finds the plain language of Regulation 10.11 clearly bestows a duty upon "National Federations and organisers . . . to transmit [the race results] to the UCI offices by fax." Furthermore, the only responsibility the Regulation placed on the UCI Commissaire attending the event was to sign the result sheets. Finally, to avoid any confusion as to whose duty it was to report the results, UCI even sent USA Cycling a letter dated October 10, 2003, which requested the race results.

It is also noteworthy, although not determinative, that representatives of USA Cycling, including its Technical Director, Shawn Ferrell, (who has been disclosed as an expert witness on rule issues by USA Cycling), have admitted that the regulation at issue presented an affirmative duty and obligation upon USA Cycling to transmit results to the UCI.

Next, USA Cycling was “guilty of . . . [an] omission in violation of a duty owed to the plaintiff” when it failed to transmit her Sandpoint Race results. *Aikens v. DeBow*, 208 W.Va. 486, 541 S.E.2d 576. The Regulation explicitly warns that “[s]hould such information not be transmitted as indicated, the UCI Management Committee may exclude it from the UCI International Calendar, notwithstanding any other penalties provided for in the regulations.”

USA Cycling, the UCI-recognized national federation for the United States, never submitted the finish results for the July 25, 2003, Short Track Cross Country event at Sandpoint Race.

In response, UCI alerted USA Cycling that it had neglected to transmit the Sandpoint Race results for the plaintiff. UCI sent a facsimile on October 10, 2003, to USA Cycling President, Jim Ochowicz, which stated:

“...the reason we contact you, as some events have still not been entered on to the UCI points’ [sic] allocation ranking system. That ranking will be of prime importance for the number one criterion of that quotas’ [sic] calculation to participate in the next Olympic Games in Athens. Out of regard for athletes having taken part in those events and in order to obtain a correct ranking on 31 December 2003, we allow ourselves to insist so that we can receive, as

soon as possible the results of the events mentioned in the table below . . .”

Again, USA Cycling failed to transmit the results.

Because no female cyclist met the Automatic Criteria set forth in the 2004 Selection Criteria, the US Olympic Nominee was to be the top-ranked rider on the UCI mountain bike rankings as of July 12, 2004. Haywood should have been that rider, accumulating 1489 points, including fifteen (15) points from the Sandpoint Race; the second place finisher, Mary McConnelough, finished with 1488 points. Unfortunately, the UCI could not include the Sandpoint Race results in the UCI Point Calculation because USA Cycling failed to submit Haywood’s results in the same calendar year in which that race occurred. The reporting time expired on December 31, 2003, and USA Cycling did not ask the UCI to include the Sandpoint results until early 2004. Using the point total calculated by the UCI and not the point total calculated by USA Cycling, the Arbitrator had no choice but to declare that Ms. McConnelough would be the United States’ representative for the Women’s Cross Country Mountain Bike Race at the 2004 Summer Olympics. As a result of USA Cycling’s neglect, Susan Haywood was not allowed to participate at the Olympic Games.

## **V. Conclusion**

Viewing the evidence in the light most favorable to the defendant and having resolved all conflicts in the evidence in its favor, the Court finds that the plaintiff is entitled to judgment as a matter of law as to the issues of duty and ultimate liability. There exists no genuine issue of material fact, and, as a matter of law, this Court holds that USA Cycling owed Susan Haywood a duty to timely submit her Sandpoint Race results to UCI. Further, it breached this duty by failing to make these submissions. Accordingly, it is the opinion

of this Court that the Motion for Partial Summary Judgment on Behalf of Susan Haywood [Doc. 44] should be, and is, hereby **GRANTED**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein.

**DATED:** March 18, 2008.



**JOHN PRESTON BAILEY**  
**UNITED STATES DISTRICT JUDGE**