

BULL

TREND

*Up-and-Coming Sport Presents
Exciting Challenges for Lawyers*

BY CHRISTOPHER J. CABOTT

The gate opens and the count begins. One one-thousand; the crowd goes silent. Two one-thousand; the bull bucks up and down violently. Three one-thousand; dirt flies in every direction. Four one-thousand; the rider holds on for dear life. Five one-thousand; the fans scream. Six one-thousand; the rider's cowboy hat flies off. Seven one-thousand; the bull unexpectedly changes direction. Eight one-thousand; the horn sounds with the rider keeping one hand on the bull and maintaining his stressful straddle. The once quiet fans in Madison Square Garden are now on their feet offering thunderous cheers of congratulations for the first completed bull ride of the day. Welcome to the 2008 Professional Bull Riders ("PBR") Versus Challenge.

In 1995, a handful of bull riders decided to turn their passion into a mainstream sport. Each of the riders invested \$1,000 and took their talents to any fair, arena or rodeo that would let them ride. Thirteen years later, PBR is one of the fastest growing sports in the United States and abroad. Similar to NASCAR, the PBR season runs almost the full calendar year — starting in January and concluding at the November world final in Las Vegas. Every weekend during the season, the top forty cowboys come to an arena near you to compete in a preliminary round with hopes of landing one of the highest scores and joining a select group in the final round to compete for the coveted purse.

Our firm represents PBR in connection with its licensing, impression and sponsorship agreements. Plainly, we have been engaged to help grow the sport. Representing PBR is fascinating. It combines the quick-hit excitement of the NFL with the continuous brand identity of NASCAR, while providing the good, wholesome family entertainment of baseball. There is also a deep allure with the riders. Each cowboy is very visible in the eyes of PBR fans and carries his own individual story.

There are a myriad of legal issues involved with PBR. Just like with any other sporting event, there are tort concerns. Who is liable if a piece of hard earth flies-up during a particularly violent "buck" and strikes a fan in

the head, which causes her to go into shock and later suffer a stroke? Does a rider truly assume the risk of his involvement as a bull-rider where in most instances he is riding a bull that he did not choose to ride but that was assigned to him? Who is responsible if one of the pyrotechnics discharged at the beginning of every PBR challenge inadvertently hits a faulty beam in the roof of the arena that was supposed to be replaced after failing a safety investigation, but was not, and that faulty beam falls and seriously injures a fan?

Intellectual property is also a concern. PBR has a number of trademarks, as do the bull owners who want to protect the commercial value of their bovine investment, but how does one use and protect the word "bull" in a unique way that furthers the development and manufacturing of targeted merchandising?

Don't forget immigration issues. A number of the riders on the PBR tour hail from Brazil.

And what about the 800-pound bull in the corner? What happens when the PBR tour goes north to Canada or south to Mexico and takes 40 or more living, breathing, agriculture-consuming bulls over national borders?

Just like with horse racing, the potential complications that arise periodically with bull owners are a concern as well.

The founding fathers of PBR more than

likely never expected that it would enjoy the success and growth it is experiencing today. Chad Pennington, starting quarterback of the Miami Dolphins, and multiplatinum recording artist Jewel are bull owners. PBR also holds a steady grasp on mainstream television. You can find it on NBC or Versus almost every weekend, and its Web presence is incredible. PBR is actually the most watched sport on YouTube, which makes sense considering that the longest a ride can be is eight seconds. A video game is also in the making.

PBR scoring resembles that of Olympic diving. Divers that perfect or nearly perfect a dive of high difficulty receive a higher score than those who perfect or nearly perfect a dive of lesser difficulty. In PBR, a perfect (completed) ride occurs when a rider stays straddled and holds onto the bull with one hand for a total of eight consecutive seconds. The rider's other hand cannot touch the bull or he will be disqualified. Scoring revolves around the difficulty of the bull, as they, too, are ranked according to the average of how often (or how rarely) they are ridden for a full eight seconds. The riders who complete or nearly complete a ride on a bull of high difficulty ranking receive a higher score than those who complete or nearly complete a ride on a bull of a lesser difficulty.

At most PBR tournaments, the bulls are randomly selected and assigned to the riders. However, some challenges "turn it up a notch" by allowing the riders that make the final round to pick the bull of their choice. These "drafts" are conducted in descending numerical order with the highest-scoring rider heading into the final round picking first.

The top riders do well financially. The weekly purse averages an amount in the low- to mid-six-figures — not bad for working a total of 16 seconds between a preliminary and final round ride.

Please don't mistake this as easy money, though. Cracking the PBR "top 40" is extremely difficult. Moreover, these guys *earn* their money. Common career-ending injuries include broken backs and broken necks. Despite the severe nature of these injuries, many cowboys refuse to wear a helmet — opting instead for only their cowboy hat.

And purses aren't the only revenue source for bull-riding's finest. Sponsors play a huge role in the sport, and consequently, some of our work for PBR includes licensing rights and agreements. Recently, this aspect of the work created a challenge

in our efforts to promote the sport to a broader audience. Channeling PBR into a wide-range, mainstream media outlet with a wide reach would help make it the household name that bull-riding faithful predict PBR will become — possibly surpassing the popularity of professional hockey within the next decade. The idea was simple. Pair PBR — the young up-and-comer — with an established international brand.

Enter *Playboy* magazine.

We consult to *Playboy* on its fashion editorials and offered the idea of a western living editorial featuring some of PBR's top riders modeling signature cowboy hats, blazers, jeans, button-down shirts and boots. PBR loved the idea. The magazine, however, wasn't convinced that bull-riding was a fit. Fixing that problem was simple. PBR is the type of thing that although it sounds interesting, you cannot appreciate it until you sit down and see it with your own two eyes. So I dragged a representative from *Playboy's*

fashion department to Madison Square Garden for the Versus Challenge on January 6. My colleague at the magazine understood the allure of PBR from the second the first bull charged out of the gate. The

We had to come up with a creative solution. The fashion editorial was too much of a win-win to lose. PBR would receive exposure in a magazine with 10 million monthly subscribers, and Playboy would be one of the first to capture the growing PBR phenomena.

fashionista took a number of candid pictures and we started to organize ideas for the shoot.

Initially, PBR and *Playboy* were on the same page as to the riders and clothing the editorial would feature. Among PBR's many sponsors are "work wear" — boots

and jeans sponsors — and PBR hoped to feature these brands exclusively in the shoot. That didn't work for *Playboy* because the purpose of a fashion editorial is to feature a variety of brands — not the same brands over and over because it is considered an advertisement and carries of slew of legal and commercial implications.

To make matters worse, some of the riders have exclusive apparel sponsorships, which means that the only clothing they can wear in any sort of print medium is that of the sponsor. But we had to come up with a creative solution. The fashion editorial was too much of a win-win to lose. PBR would receive exposure in a maga-

zine with 10 million monthly subscribers, and *Playboy* would be one of the first to capture the growing PBR phenomena.

Ultimately, we were able to help PBR develop a persuasive position with its sponsors. An editorial is different from a commercial endorsement and/or advertisement. Accordingly, the riders should have the right to wear their sponsored brands non-exclusively with other brands in the editorial. Eventually, PBR received its sponsors' approvals to move forward on these terms. *Playboy* found this compromise acceptable. We were ready to shoot.

On April 23, 2008, the PBR-*Playboy* odd couple met in a Manhattan studio. After six hours of shooting, both parties were satisfied with the images and overall look of the editorial. As the day came to an end, I reflected on the legal aspects of the shoot and completed my own eight-second ride. One one-thousand; identify the client's goals. Two one-thousand; present a proactive means to achieve those goals. Three one-thousand; counsel the client if (when) a problem occurs. Four one-thousand; identify the cause of the problem. Five one-thousand; devise a creative solution to resolve the problem. Six one-thousand; present the solution to the client. Seven one-thousand; provide the client with arguments and a position in support of the solution. Eight one-thousand; hold on tight. The practice of law will "buck" you off if you let it. ■

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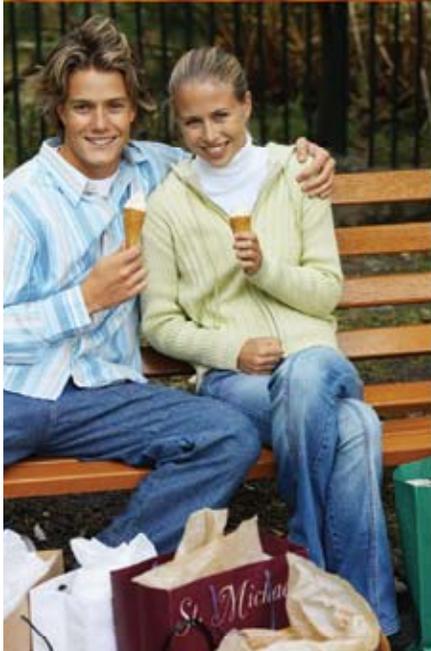
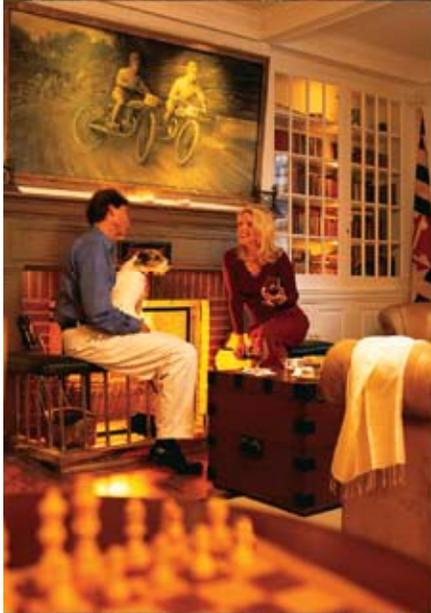
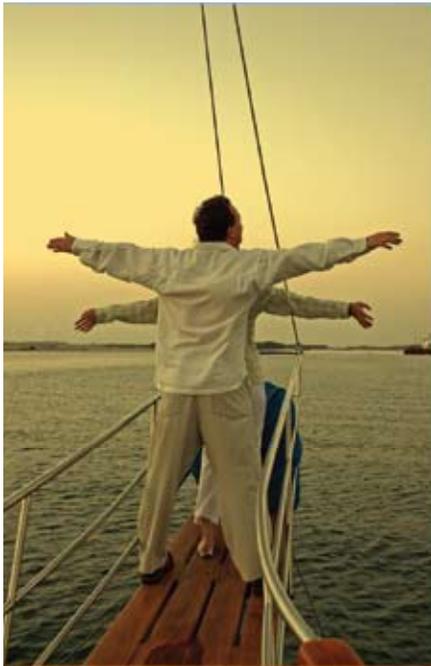
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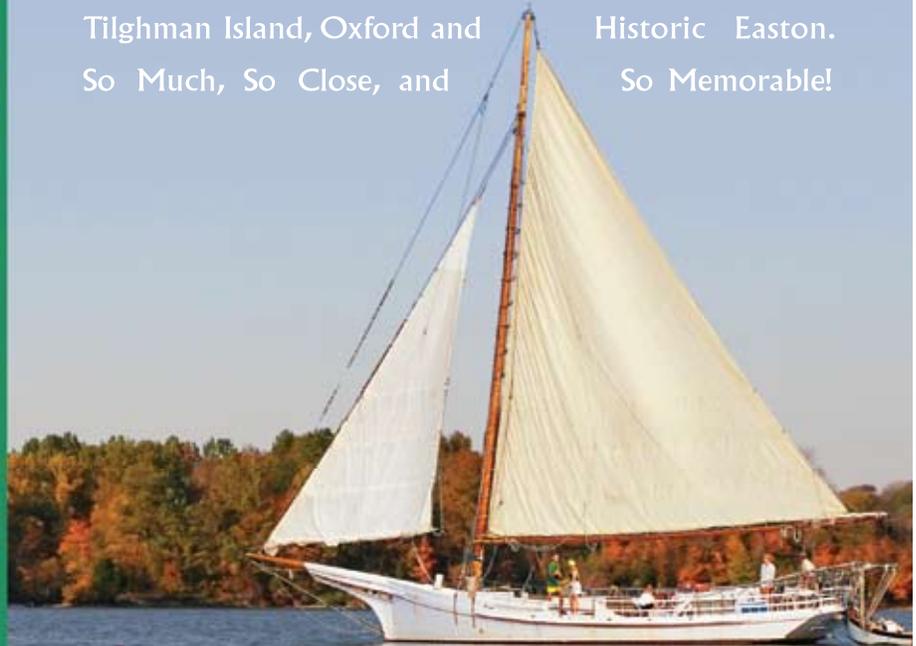
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