

Lawyers for Bonds plan to sue over steroids book / 'GAME OF SHADOWS': Attorneys say transcripts obtained illegally, so profits should go to charity

Bob Egelko, Chronicle Staff Writer Published 4:00 am, Friday, March 24, 2006



Reuters / Jeff Topping, File

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San Francisco Giants left fielder Barry Bonds enters the stadium before the start of their game against the Los Angeles Angels in Tempe, Arizona, March 9, 2006. Bonds appeared as a designated hitter striking out once and hitting a single in his first game during spring training. REUTERS/Jeff Topping

Barry Bonds' lawyers say they will ask a judge today to confiscate all profits from a new book alleging that the Giants slugger used steroids, arguing that the book was based on illegally obtained grand jury transcripts.

Any profits from the sale of "Game of Shadows," or from excerpts published in The Chronicle or Sports Illustrated magazine, should be turned over to charity, Bonds' lawyers said Thursday in a statement outlining a lawsuit they plan to file in San Francisco Superior Court.

"Bonds is not seeking personal recovery of any of the illegal profits," said attorneys Michael Rains and Alison Berry Wilkinson. "Instead he will call upon the court to donate all book proceeds to bona fide charitable organizations which serve the low-income youth who need it the most."

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They also plan to ask a federal judge today to begin contempt-of-court proceedings against the book's authors, Chronicle reporters Mark Fainaru-Wada and Lance Williams, as well as the publisher, Gotham Books, and The Chronicle and Sports Illustrated. They will make no attempt to halt publication of the book or any future excerpts, Bonds' lawyers said.

A lawyer for The Chronicle said the newspaper would ask the judge to dismiss the suit and order Bonds to pay all legal fees and costs under a California law penalizing the filing of suits that seek to stifle free expression.

The law "prohibits people like Bonds from bringing frivolous litigation against the San Francisco Chronicle in order to silence us," said Eve Burton, general counsel for the Hearst Corp., which publishes The Chronicle. She said the reporters' work "was done with care and within the bounds of

the law."

Gotham Books, publisher of "Game of Shadows," said in a statement that it was "shocked that Barry Bonds would take such a foolish step. Any respected First Amendment lawyer in America knows that his claim is nonsense. We stand by what our authors wrote."

Fainaru-Wada said that "as always, we stand behind the book and its reporting and are confident in its accuracy."

The suit was announced on the publication date of the book, which examines the **Bay Area Laboratory Co-Operative**, or BALCO, and its illicit supplying of performance-enhancing drugs to athletes.

Bonds, the book alleges, started taking steroids in 1999 and was still using them in 2001, when he hit a record 73 home runs.

Bonds has repeatedly denied using steroids or any other illegal drugs. But his suit, as described by his lawyers, does not challenge the contents of the book, only the way the information was gathered.

The book and previous newspaper articles by the same reporters were based partly on transcripts of confidential testimony by Bonds and others before a federal grand jury investigating BALCO. The investigation led to the indictments and guilty pleas of four people, including the lab's owner, **Victor Conte**, and Bonds' trainer, **Greg Anderson**. No athletes were indicted.

Federal law prohibits only the leaking of a grand jury transcript and not its publication by an outsider. But Bonds' lawyers argued Thursday that the reporters broke the law by receiving transcripts that had been illegally disclosed and using them for profit.

"Federal law prohibits personal gain from the use of any government property, including grand jury material," Rains and Wilkinson said in their statement.

They said they would ask a Superior Court judge to issue a temporary restraining order freezing all profits from the book. The judge would then appoint a receiver who would have custody of the funds during the suit and would distribute them to charity if Bonds won the case.

There's no chance of that, said Burton, the Hearst Corp. lawyer. It's not illegal for a newspaper to obtain or use grand jury testimony, she said, "as long as the reporters didn't retrieve or receive the information in violation of the law," like stealing them from the grand jury room, she said.

Chronicle Editor **Phil Bronstein** said there was nothing illegal or unethical in the conduct of the reporters or the newspaper.

"It's our belief that it's not our responsibility to maintain the secrecy provisions of the grand jury system," he said. "Our job is to make the system as transparent as possible and to raise issues that are of interest to the public."

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