

# ON THE MAINJET

By DICK MILLER

<small>PHILIP STEIN (1898-1955) MARJORIE M. SHOSTAK S. RICHARD SHOSTAK JAMES F. O'HARA MARTIN H. WEGMAN</small>	<small>LAW OFFICES <b>STEIN AND SHOSTAK</b> EQUITABLE BUILDING 3435 WILSHIRE BOULEVARD LOS ANGELES, CALIFORNIA 90010 CABLE ADDRESS: PORTBOLON (213) 389-2105</small>	<small>THEO B. AUDETT OF COUNSEL THOMAS R. TRAGER MEMBER OF OHIO BAR NOT MEMBER OF CALIFORNIA BAR</small>
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April 8, 1975

Motocross Action  
16200 Ventura Boulevard  
Encino, California 91316

Attn: Mr. Dick Miller

Dear Dick:

As agreed in our telephone conversation today, we will look forward to your testifying on behalf of Lars Larson in the U. S. Customs Court case involving the classification of motocross gloves.

Enclosed please find copies of the three prior decisions of the Customs Court involving merchandise of a similar character, but specially designed for other sports.

I am looking forward to meeting with you on Monday to discuss your testimony for the trial that will be held on Tuesday, April 15, at the new Federal Building, 300 North Los Angeles Street, on the eighth floor.

Very truly yours,  
STEIN and SHOSTAK

By *S. Richard Shostak*  
S. Richard Shostak

SRS/mbg  
Enclosures

cc Torsten Hallman Racing, Inc.  
Attn: Mr. Lars Larson

gloves in mind, it was Lars' attorney's job to prove that motocross is a sport and then prove that a motocross glove is a specific glove for the sport. It sounds easy, but you've no idea what goes on in the minds of our government bureaucrats.

I told Lars' attorney, Dick Shostak, that I'd testify for him, and he was pleased because he had contacted several people in our sport and only Bob Maynard of Orange County Cycles and I had volunteered. No one else, it seemed, had the time, or they didn't want to get involved. I happen to like Lars a whole lot, so it was easy for me. It is also a lesson in how our laws work.

I'd asked Dick if there was going to be anyone besides the government supporting the tax rate. He told me that a firm that manufactures work gloves wants to get into the motorcycle market and therefore is supporting them with testimony that motocross gloves are like any other glove. The company, I think, was called "Boss" or something like that. He said that these people had already contacted Malcolm Smith about giving their case support, but that once Malcolm found out what was going on, he decided against supporting them.

As soon as I arrived at the court on the day of the trial I was hustled out by one of the bailiffs. It seems that in a Customs Court, and some others, I guess, you aren't allowed to hear the testimony of other witnesses if you're a witness. Pretty crafty, those government people! They put me in a "holding room" and said they would call me when my time came. It was a typical barren, high-ceilinged room, something like you'd see in the movies. There was a man reading a newspaper at a table as I was led in. It was Edison Dye. We made a lot of small talk as we both waited to testify. He also imports gloves. Edison didn't mention our article in MXA on the St. Louis Trans-AMA, and I didn't mention the \$300 he still owes me from four years ago.

The bailiff came for me a little while later and I was led to the stand and sworn in. The very fact that our magazine is titled MOTOCROSS ACTION and my

Guess what? The Federal Government doesn't recognize motocross as a legitimate sport. At least they didn't until this case that I'm about to tell you about came before the U.S. Customs Court.

It all started for me when I received this phone call from an attorney representing Lars Larson about the import tax in regard to motocross gloves. It seems, according to this attorney, that the government doesn't consider or recognize motocross as a sport and therefore taxes any gloves imported into the United States at a 35-percent rate. Now, this is

quite a tariff when you consider that other recognized sporting events have a rate from 15 percent down to eight percent. This will give you an idea of why we pay so much for items that you wouldn't think would be so expensive.

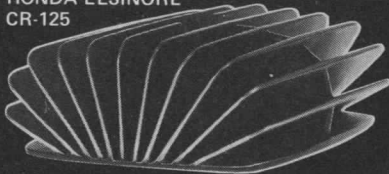
I won't go into all the jargon and reams of paper that are used and have to be used in reply, but essentially the government's case is based on this terminology: The term "gloves" includes all gloves and mittens designed for human wear, except boxing gloves, golf gloves, baseball gloves and other gloves specially designed for use in sports. With this definition of

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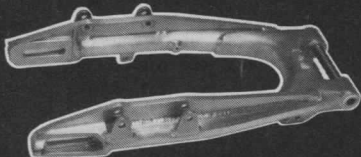
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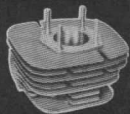
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testimony as an expert witness as to the existence of the sport of motocross took care of the first part of Dick's job. Lars had already been on the stand for a few hours, and I followed him. He's a hard act to follow.

I, obviously, didn't know what the U.S. attorney had asked Lars or how Lars had answered any of the questions, but I knew in advance that they wanted to prove that a motocross glove isn't anything special or particular to motocross, otherwise they would lose the case. I was asked by Dick to look at some gloves that were on the judge's desk and explain the differences. I did, and in so doing found myself looking at an MX glove like I've never looked at one before. I found quite a few differences from other conventional gloves. Dick then asked me about my racing background, and I modestly reported to the court "all" the races I've won. How about that? My racing record is now another Federal statistic. If they asked Lars the same question they were lucky to have time to talk about anything else. He's won everything! It didn't take me long at all.

Now it was the U.S. attorney's turn to cross-examine me. It was pretty obvious that he didn't know the first thing about motorcycles, so his questions — for the most part — pertained to the construction of and other possible uses for a motocross glove.

He wanted to know why I couldn't ride a street bike with motocross gloves. I couldn't think why not, either. Then again, I couldn't think of a reason why I would want to. I volunteered that if we all went down to the corner and checked out the guys and girls riding by on motorcycles I would bet that no more than two out of ten, if that many, would be wearing gloves of any kind. I also mentioned that it's rare when a rider doesn't race or ride with motocross gloves in the dirt.

His next question — trying to put me on the spot — was, what would happen to me if I was riding a bike on the street, and I was going between two cars in traffic, and they came together

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## ON THE MAINJET

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with me between them? "Wouldn't motocross gloves help protect your hands?" I thought Lars was going to fall off the bench after that one. I answered that it probably wouldn't hurt me to have them on in that situation, but it was a pretty extreme example. I was thinking to myself about this idiot speculating on my being crushed between two moving cars and his figuring motocross gloves are going to save me. After a few more questions along this line, and then some more questions worded differently to try to trap me in case I was telling him no-nos, he gave up on me. I glanced over at Dick and he had a confident smile on his face. I guess I was living up to his expectations.

Dick was then able to ask me some more questions to clear up any points that may have arisen during my testimony that would be a problem for his case. Then the U.S. attorney asked me some of the same questions again, still dwelling on the fact that you could use a motocross glove for anything even though it was called a motocross glove. I relented and conceded the fact that you could use them for other purposes, but I also volunteered that I wouldn't wear a pair of \$30 motocross gloves to wheel out my trash.

Lars told me afterward that they asked him the same questions, and his reply to the multi-use of the motocross glove sort of irritated the U.S. attorney. In his testimony Lars agreed that you could use a motocross glove for other than what it's designed for, and he compared it to using a Boeing 747 as a fighter plane. He said that either plane would get the job done, eventually, but only one was designed for that purpose. He used a few more examples before the attorney went in a different direction. You have to visualize Lars testifying with his Swedish accent and slow, casual replies. He is a very funny man and I wish I could have heard it. It must have frustrated the U.S. attorney to no end.

When I was dismissed from the stand the court adjourned for lunch and I went back to work. I

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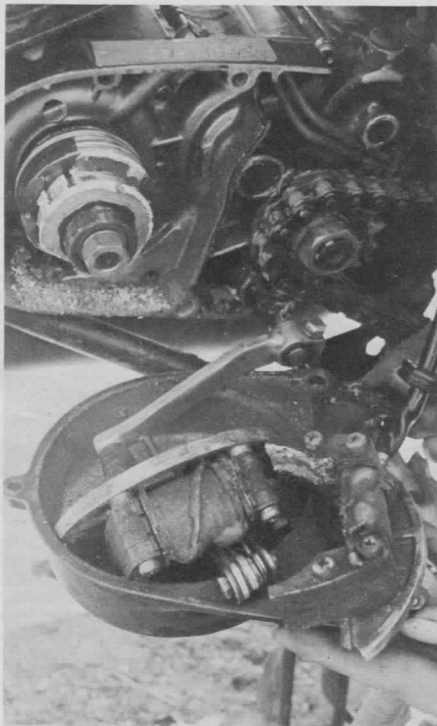
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## ON THE MAINJET

*continued*

told Dick to let me know the outcome and asked him how long it would take the court to make a decision. He told me that if the case was very clear-cut, the judge could make a decision at the end of the testimony — which they planned to finish up that afternoon. When I talked to Dick a few days later he said that the judge wouldn't render a decision at the close of the trial, so now each side has to summarize their whole case and present it to the court for a decision. I asked how long it would take. He said another YEAR. It seems that because of the government's witnesses traveling such a long distance — from Washington, D.C. — the court probably would wait for a while before ruling against them. He thought that, considering the testimony of all the witnesses, there is only one way the case can go, which will be for the plaintiff — that's us.

I learned later that he's been working on this thing for four years. INCREDIBLE! It took that long to bring this to trial. III

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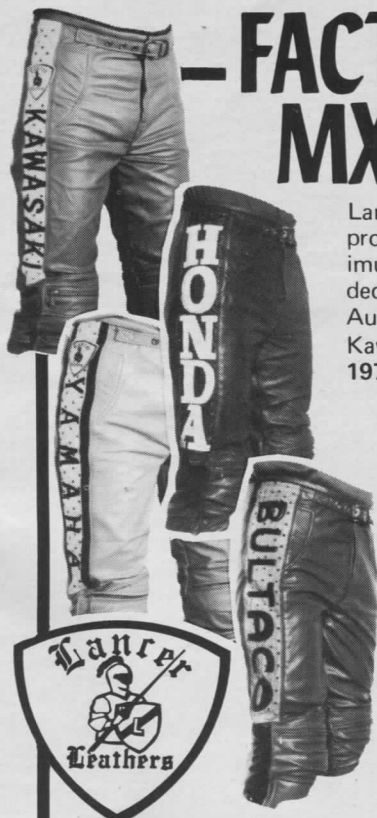
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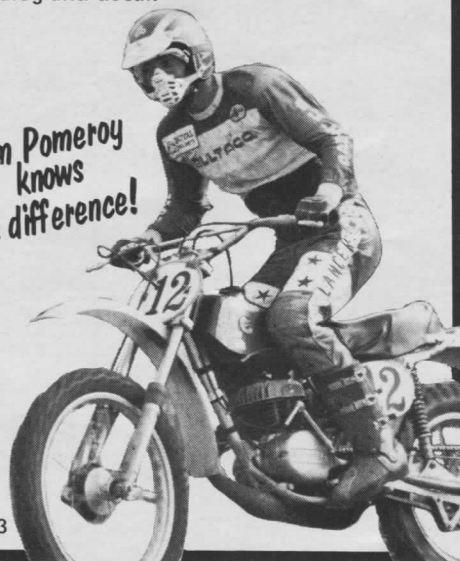
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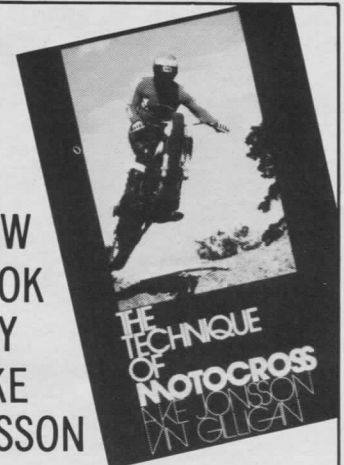
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