

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
PINELLAS DIVISION

Sammy Adams,
Plaintiff,

v.

No. A-11-CA-2356—CHR

Xtreme, S.A. and
Sports.com Inc.,
Defendants.

Deposition of Jordan Barker

1 Counsel for Xtreme: Just for the record, this deposition of Jordan Barker is being taken for
2 the limited purpose of obtaining discovery relevant to the two pending motions in this
3 matter and without waiver of our rights to fully depose this witness about all of the other
4 matters raised by the pleadings in this case on a later date.

5

6 Adams Counsel: That's the drill.

7

8 (Witness was sworn)

9

10 Q: (Xtreme counsel) Good morning. Please state your name for the record.

11

12 A: (Witness) Jordan Barker.

13

14 Q: Where do you live?

15

16 A: Right here in Miami, Stetland.

17

18 Q: Where do you work?

19

20 A: I run my own business—it's called "Nutt Nuts."

21

22 Q: Okay, I have to ask. What's with the name?

23

24 A: Nutt was the Egyptian god of the sky. My business is an indoor climbing facility
25 where I give lessons to people interested in learning how to climb and do rappelling. These
26 people are "nuts" about climbing to the skies. Hence, the name "Nutt Nuts."

27

28 Q: Are there a lot of people in Stetland into mountain climbing?

1 A: Well maybe not a ton. But there are some fun-loving types around here and it's a
2 thrill to come climb in my place at least. It's even air-conditioned. I'm thinking of opening
3 a bar and selling drinks here to my customers.
4
5 Q: Are you a big climber?
6
7 A: Yeah man, I'm into all kinds of high adrenaline activities. Been climbing since I was
8 about five years old. I'm almost 25 now so it's been a long time. But that's not all, I do
9 triathlons, am an expert water-skier, do some surfing most early mornings when there are
10 any decent waves, and I'm training for the next winter Olympics in snow-boarding.
11
12 Q: Have you been asked to compete in the Olympics?
13
14 A: Not officially. Hey, who knows? It might happen.
15
16 Q: How long has Nutt Nuts been open?
17
18 A: Almost six months.
19
20 Q: How's business?
21
22 A: It's been doing alright. Enough to pay my rent and provide me with some beer
23 money. What else do I need?
24
25 Q: Have you ever purchased SkyNet safety harnesses made by Xtreme?
26
27 A: Yes, once. I had purchased one of their surfboards a couple years ago and loved it.
28 When I got this idea for a climbing school, I went online to look for equipment. I got a few
29 items from the Sports.com website including six SkyNet harnesses.
30
31 Q: Why did you select a SkyNet harness?
32
33 A: I'd never heard of it until I found it on the Xtreme website. I thought the Velcro was
34 a groovy idea and perfect for me. And I knew Xtreme was a good company. Well that's
35 what I thought at the time. Maybe I'll just stick to their surfboards from now on.
36
37 Q: Why were you attracted to the SkyNet—were you planning to do some high-altitude
38 climbing here in Stetland?
39
40 A: (Laughing) That's a good one. The only highs in Stetland come with the use of
41 certain chemicals, if you know what I mean.
42
43 Q: So why were you attracted to the SkyNet?
44
45 A: The website said it could be operated quickly and easily—I wanted the harness to
46 use with beginning students who don't know how to use equipment. Velcro is easy to work

1 with and I figured it would make messing with my customers here less of a hassle. I don't
2 need no hassles dude.
3
4 Q: When did you purchase the SkyNet harnesses?
5
6 A: Earlier this year, about a month before our opening maybe.
7
8 Q: Did you have any problems with the harnesses?
9
10 A: Only if you count the one chick that fell (laughing).
11
12 Q: Tell me about that.
13
14 A: Not much to tell. She had climbed up about 25 feet or so on one of our climbing
15 walls. She was tied with a rope connected to her SkyNet harness. Right after she got to the
16 top, she just pushed off the wall and fell backward to let the rope ease her gently back to
17 the planet. Well, I heard a loud ripping noise and saw her roll over and out of the loops on
18 the harness. It was beautiful to watch. Fortunately she landed on some mattresses. She
19 was winded but got up and walked away.
20
21 Q: What did you do about this?
22
23 A: I called a phone number I found online for Xtreme to let them know about this.
24
25 Q: When did this phone call occur?
26
27 A: Are you serious? I don't keep track of detailed dates. Probably in the middle of
28 spring break season. I do know I had just recently opened up. Maybe March.
29
30 Q: Are you sure it was Xtreme or could it have been Sports.com?
31
32 A: Not sure. But I spoke to somebody on the phone and told them the details and said I
33 wanted to return my harnesses to get something more traditional—you know, with loops
34 and buckles.
35
36 Q: How did they respond?
37
38 A: They told me to box up the SkyNet harnesses and send them back. I did so, and a
39 few weeks later I get a note from them about a store credit. I used that to buy some other
40 harnesses made by someone else.
41
42 Q: So the store credit must have come from Sports.com and not Xtreme, right?
43
44 A: Yeah, that would make sense.
45
46 Q: So then it's true that you only ever dealt with Sports.com and not Xtreme right?

1 A: Man, I don't know the difference between those corporations. All I know is that the
2 company I bought them from took them back and sold me a replacement product instead.
3 I've had no problems with the new ones so I'm cool with all of this.
4
5 Q: But I'm assuming since you could only have purchased the SkyNet from Sports.com
6 that's who you were dealing with. Is it fair to say you've never had any dealings with
7 Xtreme directly?
8
9 A: Right. Oh wait. That's not true. I emailed Xtreme one time offering to do some kind
10 of deal where I would get free surfboards from them in exchange for letting them advertise
11 that I use their boards. You know, like the pros do.
12
13 Q: When was that?
14
15 A: Maybe a year ago.
16
17 Q: Did you ever get a response from anyone at Xtreme?
18
19 A: Yeah I got a nice email saying they don't have those kinds of deals yet but if they
20 ever did they'd be happy to consider doing business with me.
21
22 Q: Do you recall anything else about that exchange of emails?
23
24 A: Not much. I told them how much I dig their boards and how popular they are
25 becoming in Stetland. I'm starting to see more and more of their boards on the beach. I've
26 also noticed their ads on a site called surfguru.com or something like that.
27
28 Q: What is that website—the surfguru—thing you mentioned?
29
30 A: A website all about Stetland surfing for Stetland surfers. Oh. By the way, you tell
31 them I'm still willing to do that deal with them okay?
32
33 (Counsel for Xtreme) I'll be sure to do that. No more questions.
34