

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

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Sammy Adams,  
Plaintiff,

v.

No. A-11-CA-2356—CHR

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

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Deposition of Pat Lawler

1 Counsel for Plaintiff Sammy Adams: Just for the record, this deposition of Defendant's  
2 Sports.com's Corporate Representative Pat Lawler is being taken for the limited purposes  
3 of obtaining discovery relevant to the two pending motions in this matter. Sammy Adams  
4 takes this deposition for this limited purpose and without waiver of his rights to fully  
5 depose this witness about all of the other matters raised by the pleadings in this case on a  
6 later date. Just like the other depositions?

7  
8 Xtreme Counsel: Fine.

9  
10 Sports.com Counsel: Whatever. We got no dog in this hunt. Let's just make it brief. And  
11 remember, if anyone starts getting into the merits of the case, I'm shutting this down. I still  
12 don't know why I have to produce a client rep to help resolve ya'll's little motions.

13  
14 (Witness was sworn)

15  
16 Q: (Adams counsel) Howdy. Please state your name for the record.

17  
18 A: (Witness) Pat Lawler.

19  
20 Q: Where do you live?

21  
22 A: Austin, Texas.

23  
24 Q: And your job title at Sports.com?

25  
26 A: Chief Executive Officer.

27  
28 Q: What are your company's total sales?

1 (Counsel for Sports.com) I object. Not relevant to the pending motions. Save this  
2 question for later.  
3  
4 (Adams Counsel) Okay.  
5  
6 Q: Tell me about your company's relationship with Xtreme?  
7  
8 A: We are an authorized retailer of their products. Have been for about five years.  
9 Another retailer went out of business, poorly run, and we stepped in and made a deal with  
10 Xtreme.  
11  
12 Q: What's your deal?  
13  
14 A: Generally, we get their products for about 15% less than the suggested retail value  
15 and we sell them to the public. We ship and collect shipping fees. They agree that we get  
16 exclusive rights to sales within the southern United States.  
17  
18 Q: You have an actual store?  
19  
20 A: One, in Austin, where our principal place of business is located.  
21  
22 Q: You're incorporated in Stetland though?  
23  
24 A: Yes.  
25  
26 Q: Why incorporate in Stetland if you're based in Austin?  
27  
28 A: Our lawyer suggested that. Something about lower franchise taxes in that state. We  
29 have no offices there or stores or any employees.  
30  
31 Q: How many employees do you have?  
32  
33 A: About a hundred. All in Austin where we have our office location, our warehouse  
34 and our one store.  
35  
36 Q: Talk to me about your website.  
37  
38 A: We have one. It accounts for 80% of our total sales.  
39  
40 Q: Do you sell other manufacturers' products?  
41  
42 A: Yes, of course. Xtreme is just one of our relationships.  
43  
44 Q: Do you sell both the Surf and the Turf lines?  
45  
46 A: Of Xtreme? Yes.

1  
2 Q: In the Austin store do you sell both also?  
3  
4 A: Yes. Sammy Adams could've purchased anything there but apparently he used our  
5 website instead.  
6  
7 Q: Because he was living in Stetland when he made the purchase, no doubt?  
8  
9 A: Whatever.  
10  
11 Q: Did you know the SkyNet you sold my client was defective?  
12  
13 A: It is not defective. Perhaps not perfect, especially if the user doesn't use it correctly,  
14 but not defective.  
15  
16 Q: Your company knew it was selling Xtreme products to someone in Stetland?  
17  
18 A: Yes. Look we're not objecting to the lawsuit in Stetland. No need to argue with me  
19 about that.  
20  
21 Q: And you report your sales, by state, of Xtreme products to Xtreme as part of your  
22 relationship with Xtreme?  
23  
24 A: Yes. Annually.  
25  
26 Q: What was your total volume of sales in Stetland last year of Xtreme products?  
27  
28 A: I don't recall the actual numbers.  
29  
30 Q: If Julian Lukas of Xtreme testified that 5% of Xtreme's surfing products were sold by  
31 you to Stetland purchasers last year, would that strike you as accurate?  
32  
33 A: Julian Lukas has an incredibly sharp memory and is good with numbers. Damn  
34 engineers. If he said that I'd say he must be right.  
35  
36 Q: What about climbing gear sold by your company to folks in Stetland?  
37  
38 A: Very, very small. There may have been a handful of sales from our website to  
39 Stetland of climbing gear last year but probably not a statistically significant number.  
40 Perhaps a few thousand dollars of random items—rope perhaps.  
41  
42 Q: Did you sell many units of the SkyNet vest in Stetland last year?  
43  
44 A: Doubtful since it didn't begin to be sold until the current year.  
45  
46 Q: How many SkyNet vests have you sold in Stetland this year?

1 A: Well apparently we sold one to your client, for delivery here in Texas.  
2  
3 Q: Any others?  
4  
5 A: I don't recall any.  
6  
7 Q: Isn't that surprising?  
8  
9 A: Not really. It's a brand new product, only on the market a short time, designed for  
10 high-altitude climbing. Stetland doesn't exactly have snow-capped peaks.  
11  
12 Q: Are you denying any other sales of the SkyNet in Stetland?  
13  
14 A: I can't deny any. But it wouldn't be much.  
15  
16 Q: Do you market Xtreme products in Stetland?  
17  
18 A: Xtreme handles its own marketing. We have fliers in local papers and one Texas  
19 travel magazine for our store and website. Our website is accessible to anyone.  
20  
21 Q: I understand you are the retailer for Xtreme in the southern United States. What's  
22 to stop you from selling on your website to someone from the north?  
23  
24 A: Nothing. I'm sure that happens.  
25  
26 Q: You do keep records of where all of your sales and shipments go to?  
27  
28 A: Yes, certainly. I don't have all of those numbers with me. This case was just filed.  
29 I'm only appearing here as a courtesy to you guys.  
30  
31 Q: You've met Julian Lukas?  
32  
33 A: Yes, at a number of conventions.  
34  
35 Q: Including one in Tampa, Stetland?  
36  
37 A: Yes I sure remember that convention (laughing).  
38  
39 Q: Why?  
40  
41 A: Reasons that have nothing to do with this lawsuit. Let's say it was a fun convention.  
42  
43 Q: Tell me about your meeting with Lukas then?  
44  
45 A: Usual lunch and drinks. Talked about business and new products.  
46

1 Q: Do you recall discussing the SkyNet?  
2  
3 A: Not by name. But he said they'd like to do a new climbing harness that could be put  
4 on easier and perhaps more safely.  
5  
6 Q: Go on.  
7  
8 A: I recall it was a cool day and I had a jacket on. We were eating outside but the sun  
9 came out. As I warmed up, I suddenly ripped open the jacket—it was Velcro—and it made  
10 a loud sound. A thought occurred to me. I said "Hey Jules—that's a nickname I use for  
11 Julian—maybe you should use Velcro on your new harness!" His eyes got real big and he  
12 said "brilliant! For an American, no less."  
13  
14 Q: So it was your idea?  
15  
16 A: I'd like to take some credit I suppose. But I didn't have anything else to do with it.  
17  
18 Q: Do you like the product?  
19  
20 A: Sure.  
21  
22 Q: Your website has a page giving information on the SkyNet, correct?  
23  
24 A: Yes.  
25  
26 Q: It uses language saying "New Velcro fastener for safe 'n secure high-altitude use."  
27 Correct?  
28  
29 A: Yes.  
30  
31 Q: If the SkyNet fastener turned out to be unsafe, that representation would be  
32 misleading wouldn't it?  
33  
34 A: I don't think it's unsafe. Besides that's language we just copied from the information  
35 on Xtreme's website. Talk to them.  
36  
37 Q: We have. Now it's your turn.  
38  
39 A: I don't know why you're suing us. We're only an innocent retailer.  
40  
41 Q: You sold our client a product that almost killed him. Don't you stand behind your  
42 products?  
43  
44 A: Yes, absolutely. Up to the full retail purchase price. Beyond that, go to Switzerland.  
45 We did nothing wrong and my lawyer says you can't get away with suing us. This is why  
46 we need more tort reform.

1  
2 (Counsel for Adams) I object to everything after “yes, absolutely” as non-responsive.  
3  
4 Q: Your counsel produced a document to me prior to the deposition today. It’s marked  
5 as Exhibit “1.” Do you recognize it?  
6  
7 A: It appears to be one of our claim documents. We fill these out if a customer ever  
8 calls and alleges an injury from one of our products. This is one filled out in April of this  
9 year by one of our customer relations staff people.  
10  
11 Q: Is this an official company document filled out by an appropriate staff person in the  
12 regular course of business?  
13  
14 A: Yes.  
15  
16 Q: Maintained for business purposes on your databank?  
17  
18 A: Yes.  
19  
20 Q: What does this report indicate?  
21  
22 A: Apparently in April 2011, a customer in Miami, Stetland that runs an indoor  
23 climbing school called to complain. Said a Velcro climbing harness they had just purchased  
24 from us ripped open and caused a customer to fall about twenty feet.  
25  
26 Q: What was the resolution of this claim?  
27  
28 A: We stood behind the product. We returned the purchase price for a half-dozen  
29 harnesses the school had purchased. But we told them if the injured customer of theirs  
30 presented any medical bills, they’d have to turn those over to Xtreme and not us. I don’t  
31 know if any of that occurred.  
32  
33 Q: Would you have alerted Xtreme to this?  
34  
35 A: That’s our practice.  
36  
37 Q: Do you know if that happened here?  
38  
39 A: I’m sure it would have.  
40  
41 Q: Did you report this personally to Xtreme?  
42  
43 A: Not my job.  
44 Q: After looking at this document, can you now agree with me that your company has  
45 sold other Xtreme SkyNet harnesses to customers in Stetland—other than just my client?  
46

1 A: Well I would agree that we sold the SkyNet product to at least one other Stetland  
2 customer this year. I never denied such sales; I just said I didn't think there'd be many, yet.  
3 Or maybe ever. But some, sure.  
4  
5 Q: And that, at least because of this complaint, Xtreme would have been aware of at  
6 least of some sales of the SkyNet in Stetland?  
7  
8 A: That'd be my speculation, sure.  
9  
10 (Counsel for Adams) I think I'm done here.  
11  
12 (Counsel for Xtreme) I've just got a few questions of my own.  
13  
14 Q: Pat Lawler, you understand I represent Xtreme?  
15  
16 A: Yes, I sure do.  
17  
18 Q: Is it your testimony that there have been, to your personal knowledge, sales of  
19 SkyNet harnesses to only two different Stetland customers?  
20  
21 A: That sounds about right, so far as I know.  
22  
23 Q: And one of those customers may have purchased the SkyNet after the sale to Sammy  
24 Adams?  
25  
26 A: Possibly.  
27  
28 Q: And the other customer, Sammy Adams, had the product delivered to him in Texas?  
29  
30 A: That's right.  
31  
32 Q: Not exactly a lot of volume of products being sold to Stetland folks?  
33  
34 A: That's for darn sure.  
35  
36 Q: And those sales were by your company and not Xtreme, correct?  
37  
38 A: Hell yes.  
39  
40 Q: And your company is not liable for any product problems because you're not the  
41 manufacturer are you?  
42  
43 A: Hell no.  
44 (Counsel for Xtreme) Thank you, that's all for now.  
45

## **Sports.com**

Claims Department

Date: April 3, 2011  
Claimant Name: Jordan Barker; Nutt Nuts  
Claim No.: 2011X1205  
Address: 2314 Ocean Blvd., Miami, Stetland  
Product: SkyNet Harness

### Description of Incident:

Customer ordered six SkyNet harnesses very recently. A woman using the harness fell from about twenty feet while rappelling in his indoor climbing school. Harness ripped open and caused customer's fall. Customer wants to return all six harnesses for a full refund.

### Resolution:

Customer was advised to return all six of the harnesses for a store credit for the full amount of his original purchase price. Customer agreed. Probably should not resell the defective one.

Claim Personnel: AHF