

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF ALABAMA  
3                   SOUTHERN DIVISION

4                   -----/  
5 CABLZ, INC.,  
6                   Plaintiff/Counterclaim  
7                   Defendant,  
8                   

9                   vs.                   Civil Action No.: 2:14-CV-00091

10 CHUMS, INC.,  
11                   Defendant/Counterclaim  
12                   Plaintiff.  
13                   -----/

14                   Suite 200  
15                   1200 North Federal Highway  
16                   Boca Raton, Florida  
17                   Wednesday, 8:58 a.m. - 3:11 p.m.  
18                   August 20, 2014

19                   DEPOSITION OF MARK J. SOSIN

20  
21  
22                   Taken on behalf of the Plaintiff/Counterclaim  
23 Defendant before Shari Grimsgaard, CSR(NJ), CRR, RPR,  
24 FPR, Notary Public, State of Florida at Large, pursuant  
25 to Notice of Taking Deposition in the above cause.

1 APPEARANCES:

2  
3  
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1 Thereupon:

2 MARK J. SOSIN

3 was called as a witness and, having been first duly sworn  
4 and responding, "I do," was examined and testified as  
5 follows:

6 MR. GIGGER: Rudy, just to confirm that  
7 we're simply objecting to form and preserving  
8 specific objections for later.

9 MR. HILL: Understood and agreed.

10 DIRECT EXAMINATION

11 BY MR. HILL:

12 Q. Mr. Sosin, my name is Rudy Hill. I  
13 represent a company called Cablz, Incorporated who filed  
14 a lawsuit against Chums, Incorporated pending in the  
15 Northern District of Alabama.

16 If you would, please, sir, state your full  
17 name for the record.

18 A. My name is Mark Sosin.

19 Q. Do you have a middle name, sir?

20 A. Yes.

21 Q. What is it?

22 A. Jessurun, J-E-S-S-U-R-U-N. My grandfather  
23 was Mark Jessurun.

24 Q. Sir, have you ever sat for a deposition  
25 before?

1 A. Yes.

2 Q. Approximately how many times?

3 A. Twice.

4 Q. And when was the last time that you sat for  
5 a deposition?

6 A. I would guess 25 to 28 years ago.

7 Q. Do you recall the circumstances under which  
8 you sat for that deposition?

9 A. Yes, sir.

10 Q. Can you tell me about those, briefly?

11 A. Yes, sir. Both cases were somebody drowned  
12 in a pair of fishing waders and I was an expert witness  
13 in the case to talk about waders and what they did.

14 Q. And you're saying both of the depositions  
15 that you've taken previously related to fishing wader  
16 cases?

17 A. Death by drowning in a pair of waders.

18 Q. And do you recall, sir, whether you  
19 testified or -- strike that, whether you were an expert  
20 witness for the plaintiff in those cases or the  
21 defendant in those cases?

22 A. For the defendant.

23 Q. And do you recall where those cases were  
24 pending?

25 A. One was in Allegheny County, Pennsylvania

1 and the other was in the Southern District of  
2 Mississippi.

3 Q. And do you recall what company engaged you  
4 as an expert witness in those cases?

5 A. Well, yeah, the attorneys.

6 Q. Yes, sir. Do you recall the company who --

7 A. Oh, I'm sorry.

8 Q. Yes.

9 A. My hearing isn't always the best.

10 Q. I'll try to speak up. I apologize, sir.

11 A. The first one I believe was K-Mart, and the  
12 second one I know was Sears.

13 Q. Do you recall the names of any other parties  
14 in those cases?

15 A. No, sir.

16 Q. And which one was the case where K-Mart was  
17 a party, the one in Mississippi or the one in  
18 Pennsylvania?

19 A. The one in Pennsylvania.

20 Q. And so in both of those cases you gave a  
21 deposition as an expert witness; is that correct?

22 A. Yes, sir.

23 Q. Did either of those cases go to trial?

24 A. Yes, sir.

25 Q. Did you testify as an expert at either one

1 of those trials?

2 A. Yes, sir.

3 Q. Do you recall the areas of testimony --  
4 let's start with the K-Mart case, do you recall areas of  
5 testimony upon which you gave -- you testified as an  
6 expert?

7 A. Yes, sir.

8 Q. Can you tell me about those briefly?

9 A. Umm, the event happened in Canada. A man  
10 was about 35 years old. He played semipro baseball. He  
11 stood on a dam in a pair of waders, and I went and  
12 visited the scene. And they opened up some water up  
13 above him that washed him off into deep water and he  
14 tried to get the waders off and he drowned.

15 Q. And do you recall what aspects of that  
16 instant you gave expert testimony about in that case?

17 A. Yes, sir.

18 Q. Can you tell me about those a little bit?

19 A. Yes, sir. I worked with the attorneys and  
20 guided them in waders and what waders did in water. And  
21 we brought somebody in of similar stature, same age, an  
22 athlete and we shot video of him doing two things, one  
23 swimming out with the waders on, and two, taking the  
24 waders off and swimming out.

25 Q. And so did your testimony in that case

1 relate to whether or not waders were a defective  
2 product?

3 A. Ah, not really.

4 Q. I'm just trying to kind of understand what  
5 your testimony did relate to.

6 A. Yeah, I'm trying to remember.

7 Q. Okay, sure.

8 A. You know, we're going --

9 Q. If you don't recall that's --

10 A. -- we're going back 25, 28 years. My  
11 testimony was basically what he could have done to get  
12 them off. He had trouble getting them off and he got  
13 tired and he drowned.

14 Q. And how about the case in, let's see the  
15 Sears case where you were an expert on behalf of Sears,  
16 was that similar or can you tell me a little bit about  
17 what you testified about in this case?

18 A. There was a man who was a colonel in the Air  
19 Force and he was duck hunting. He had on a down jacket,  
20 waders and they had a little aluminum boat. And the  
21 boat drifted off and he started going after it with his  
22 waders and finally he got too deep and he had to swim  
23 for the boat. And when he tried to get back, he  
24 drowned. And it was just a question of him swimming out  
25 too far, getting tired and coming back.



1 Q. And were those pair of waders the same brand  
2 that were at issue in other cases?

3 A. No, these came from Sears.

4 Q. Okay.

5 A. I don't know what brand they are.

6 Q. Do you recall in the, we'll call it the  
7 K-Mart case, whether there were any areas of testimony  
8 you were planning to testify about at trial but the  
9 judge didn't allow you to testify about?

10 A. No, sir.

11 Q. How about in the Sears case?

12 A. No, sir.

13 Q. And were those cases, were they both about  
14 25 years ago or so; do you recall whether one was  
15 earlier and one was later?

16 A. Yes. The first one was the K-Mart case.

17 Q. So it might have been in the early 1980s?

18 A. I would say -- well, I -- my son, my older  
19 son was 14 at the time and I used him to try some  
20 theories. He's now 44 years old, so that's 30 years.  
21 And I'd say the other one was 27, 28 years.

22 Q. And other than the depositions that you gave  
23 in those two cases, have you ever sat for a deposition  
24 of any other kind previously?

25 A. Not that I can recall, sir.

1           Q.     Well, since it's been a minute let me just  
2 go over some real basic guidelines for today that will  
3 help us both communicate better.

4                     If you could, sir, and you're doing a great  
5 job so far, please just try to answer with verbal yes or  
6 no's instead of shaking your head or nodding your head  
7 and that way the record will reflect your answer  
8 accurately.

9                     But if you would, just let me finish my  
10 question before you begin your answer and I'll do the  
11 same for you. I'll allow you to finish your answer  
12 before I ask another question and that way we won't be  
13 be speaking over each other; do we agree to do that,  
14 sir?

15          A.     Yes, sir.

16          Q.     If at any point today you need to take a  
17 break for whatever reason that's perfectly fine. The  
18 only thing I ask is if there is a question pending that  
19 you go ahead and answer it; can we agree to that, sir?

20          A.     Yes.

21          Q.     And if at any time today you realize  
22 anything you've said previously may be incorrect or  
23 inaccurate or incomplete, please stop me and let's go  
24 back and make sure that whatever it is you testified  
25 about is fully accurate; can we agree to do that, sir?

1           A.     Yes, sir.

2           Q.     And if at any point I ask you a question you  
3 don't understand, please ask me to ask that again. I  
4 want to make sure you understand my question before you  
5 answer it; can we agree to that?

6           A.     Yes, sir.

7           Q.     And if you do answer my question, is it fair  
8 for me to assume that you understood the question?

9           A.     Yes, sir.

10          Q.     Do you understand that you're under oath  
11 here today, sir, and that your testimony may be used in  
12 the trial of this case?

13          A.     Yes, sir.

14          Q.     Have you taken any medication that may  
15 affect your ability to testify truthfully here today?

16          A.     No, sir.

17          Q.     Have you ever been diagnosed with any kind  
18 of memory loss issues?

19          A.     No, sir.

20          Q.     Is there anything else you're aware of that  
21 may affect your ability to testify truthfully here  
22 today?

23          A.     No, sir.

24          Q.     Do you go by any other names or aliases  
25 other than Mark Sosin, sir?

1 A. No, sir.

2 Q. What is your current address?

3 A. 681 Southwest 15th Street, Boca Raton,  
4 Florida 33486.

5 Q. And how long have you resided in Boca Raton?

6 A. We are starting our 36th year.

7 Q. And prior to that where did you call home,  
8 sir?

9 A. Monmouth County, New Jersey.

10 Q. Did you grow up in New Jersey?

11 A. Yes, sir.

12 Q. Have you ever resided in Alabama?

13 A. No, sir.

14 Q. When is the last time you traveled to  
15 Alabama?

16 A. Probably a couple of years ago.

17 Q. Do you recall why you may have traveled  
18 there?

19 A. No. Probably to get to Mississippi.

20 Q. So just been traveling through the state.  
21 In our defense. Do you have any family or friends who  
22 currently reside in Alabama?

23 A. No, sir. Well, let me take that back. I  
24 probably know some people who reside in Alabama.

25 Q. Do you know where they reside in Alabama?

1           A.     I can't -- I can't. I'm sorry. I didn't  
2 mean to step on you.

3           Q.     Oh, sure, go ahead. I'll tell you the  
4 reason I ask is if this case goes to trial, I would just  
5 like to know if there is anybody you have a close  
6 connection within in the State of Alabama for purposes  
7 of the jury selection process. I'm trying to figure out  
8 if you have any family or friends residing in the state?

9           A.     No. I can't even recall who I know in  
10 Alabama.

11          Q.     Fair enough.

12          A.     But if push came to shove I'm sure I know  
13 some people.

14          Q.     Fair enough. Sir, how old are you  
15 currently?

16          A.     81.

17          Q.     And what's your date of birth?

18          A.     July 7th, 1933.

19          Q.     Are you currently married?

20          A.     Yes, sir.

21          Q.     Does your wife have any family or friends  
22 from Alabama?

23          A.     No, sir.

24          Q.     Do you have any children who reside in  
25 Alabama?

1 A. No, sir.

2 Q. Cousins, anything like that?

3 A. No, sir.

4 Q. Are you currently employed, sir?

5 A. I am semiretired.

6 Q. Okay. You say semi so are you kind of doing  
7 something here and there?

8 A. Yes.

9 Q. And what is that?

10 A. Well, we just finished a video for the State  
11 of Florida on June 30th. I write two columns a month,  
12 an occasional feature. I give talks. I try and keep  
13 busy, but not at the pace that I used to.

14 Q. Sure. And doing those activities are you  
15 still receiving a paycheck?

16 A. I hope so.

17 Q. Well, do you run those activities through  
18 any company or anything like that?

19 A. Yes.

20 Q. What company is that?

21 A. Mark Sosin Communications Incorporated.

22 Q. Is that company located here in Boca Raton?

23 A. Yes, sir.

24 Q. Does it have any employees?

25 A. Paid employees?

1 Q. Yes, sir.

2 A. No.

3 Q. Did anybody affiliated with Mark Sosin  
4 Communications assist you in preparing your report in  
5 this case?

6 A. No, sir.

7 Q. Sir, have you personally ever been a  
8 plaintiff or a defendant in a civil lawsuit?

9 A. Umm, yes.

10 Q. Approximately on how many occasions did that  
11 happen?

12 A. Once.

13 Q. Can you tell me generally about the nature  
14 of the lawsuit?

15 A. Yes. We did some video work for a company  
16 and they refused to pay us, and we filed suit for the  
17 money and went to mediation and settled.

18 Q. And do you recall approximately when that  
19 was, the lawsuit was filed?

20 A. Two years ago.

21 Q. Was it filed here in Florida?

22 A. Yes, sir.

23 Q. And I guess in Broward County?

24 A. Ah, I thought it was filed in Palm Beach  
25 County, but I may be wrong.

1           Q.     Okay, fair enough. And it was resolved at  
2 mediation?

3           A.     I'm sorry?

4           Q.     It was resolved at mediation?

5           A.     Yes.

6           Q.     Have you ever been arrested, sir?

7           A.     No, sir.

8           Q.     Charged with a crime?

9           A.     No, sir.

10          Q.     Convicted of any crime?

11          A.     No, sir.

12          Q.     Could you briefly kind of describe for me  
13 your educational background?

14          A.     I went to the University of Pennsylvania's  
15 Wharton School, graduated with a Bachelor of Science in  
16 Economics. I eventually went to New York University  
17 working on a masters; I never completed it. And that's  
18 the basis of my education.

19          Q.     What were you studying in the masters  
20 program?

21          A.     An MBA, sir.

22          Q.     And how far along did you get in those  
23 studies?

24          A.     I finished all the courses. I had to write  
25 a thesis and at that point I had changed my career and I



1 didn't write the thesis.

2 Q. Other than the bachelor's degree that you  
3 told me about just a second ago, do you have any other  
4 degrees of any kind?

5 A. No, sir.

6 Q. Any certifications or any other specialized  
7 qualifications?

8 A. No, sir.

9 Q. I believe you served in the military, sir;  
10 is that correct?

11 A. That is correct.

12 Q. First of all, I appreciate your service.  
13 And could you tell me a little bit about that?

14 A. Yes. I went through Navy ROTC at the  
15 University of Pennsylvania. I was commissioned an  
16 ensign in the United States Navy one hour after I  
17 graduated. I had a job. I went aboard a destroyer  
18 called the U.S.S. Stribley DD-867. I was in the gunnery  
19 department, worked my way up to gunnery officer. I was  
20 a qualified officer on the deck underway, qualified  
21 command duty officer, qualified special C detail officer  
22 of the deck.

23 Q. And in those -- with those qualifications  
24 what did you do kind of on a day-to-day basis in the  
25 Navy?

1           A.     Well, you know, the captain doesn't run the  
2 ship. He's in charge of the ship, but he doesn't run  
3 it. And they have an officer on the bridge who is the  
4 officer of the deck. And you start with being officer  
5 of the deck in port and then you become officer of the  
6 deck underway and you run the ship. You are technically  
7 by Navy standards the third ranking officer aboard at  
8 that time during your watch.

9                     And then they have another officer and what  
10 they call CIC, combat information center. That's where  
11 all your radar scopes are and your status boards and  
12 everything else and there is an officer in there. So  
13 theoretically there are three officers on watch, an  
14 officer on the deck, junior officer of the deck and a  
15 CIC officer.

16          Q.     And during your time in the Navy, sir, did  
17 you receive any training in any specific skills or --

18          A.     Yes. I went to school for antisubmarine  
19 warfare.

20          Q.     Can you tell me a little bit about that;  
21 what was involved in that kind of training?

22          A.     I went to Key West for eight weeks and they  
23 trained us to use sonar. Actually they're sonar  
24 operators, but there is an officer in charge and they  
25 taught us to be in charge. And that was basically it.

1 All the rest of the training was onboard. You work your  
2 way up.

3 Q. Yes, sir. Mr. Sosin, I'm going to go ahead  
4 and mark your report that you prepared in this case as  
5 Plaintiff's Exhibit 1. I'm going to hand that to you  
6 and just throughout the deposition I'll be asking you  
7 some questions about that. If at any time you need to  
8 refer to that or what not, please feel free to do so.

9 (Exhibit 1 is marked for  
10 identification.)

11 First of all, sir, would you please just  
12 take a look at Plaintiff's Exhibit 1 and insure that,  
13 in fact, it is your report.

14 A. It looks like it.

15 Q. It looks like the report you prepared in the  
16 case we're here about today, sir?

17 A. Yes, sir.

18 Q. Did you draft that report, sir?

19 A. Yeah, I wrote all this.

20 Q. Have you ever prepared a report like that  
21 for litigation before?

22 A. Not that I can remember.

23 Q. In those two cases relating to waders did  
24 you prepare a written report?

25 A. I can't remember, sir.

1           Q.     And, sir, if you'll -- towards the back of  
2 your report, I believe Exhibit A is a CV, a resume.

3           A.     Do you want Exhibit A?

4           Q.     Yes, sir. Towards the back I was going to  
5 ask you some questions about it.

6           A.     Okay.

7           Q.     First of all, did you prepare this for this  
8 case or was this something you just had kind of laying  
9 around that you already had prepared?

10          A.     The curriculum vitae?

11          Q.     Yes, sir.

12          A.     No, I prepared that specifically for this  
13 case.

14          Q.     And looking at Exhibit A in your report does  
15 everything appear accurate on there?

16          A.     Yes, sir.

17          Q.     And it looks like, just briefly running down  
18 some of the things on your CV, that your military career  
19 came to an end in 1957?

20          A.     Yes.

21          Q.     Can you tell me a little bit about how that  
22 happened or why you left the military at that time?

23          A.     Umm, I debated about staying in and decided  
24 finally that I would get out. I went in the reserves  
25 for another six years and then got a release from

1 military service.

2 Q. Can you tell me just briefly about what you  
3 did with Triangle Conduit and Cable?

4 A. Yes. They were wire and cable manufacturers  
5 and I was the assistant to the treasurer and I worked on  
6 a number of financial matters, whatever he told me to  
7 do.

8 Q. So is it fair to say I guess you had a  
9 bachelor's degree in economics, right, so is that kind  
10 of --

11 A. Yeah.

12 Q. -- the area you went in to work with that  
13 company?

14 A. Yeah.

15 Q. Would that be fair to say as well about Kurt  
16 Salmon and Associates?

17 A. Yes. Kurt Salmon Associates were management  
18 consultants and they worked primary in the garment  
19 industry, manufacturer of clothing most of which took  
20 place in small towns in the south and I got to travel  
21 the south quite a bit.

22 Q. And what was the nature of your employment  
23 with them, were you doing financial-related things or --

24 A. No. Actually we were doing office systems  
25 and procedures, trying to cut back some of the

1 paperwork --

2 Q. Okay.

3 A. -- that drowns most companies.

4 Q. And let me go back. When you were in the  
5 Navy where were you stationed at, sir?

6 A. I was aboard a destroyer. We were out of  
7 home port the first year over 300 days. We spent a lot  
8 of time in the Mediterranean and then down in the Middle  
9 East. I was there in 1956 when they shot up the Gaza  
10 Strip and I was in No Man's Land and the War of Nerves  
11 and a lot of shooting and I just never want to go back  
12 to the Middle East again.

13 Q. And how about Triangle Conduit and Cable,  
14 where were they located?

15 A. They were in New Jersey.

16 Q. And Kurt Salmon and Associates as well?

17 A. No. They had offices all over. They had an  
18 office in Atlanta, an office in Washington, D.C. and an  
19 office in New York.

20 Q. Were you in their New York office at that  
21 time?

22 A. Yeah, but I was on the road most of the  
23 time. They would send two of us or more to a client.

24 Q. And then after that your next employer was  
25 Revlon; is that correct?

1 A. Yes.

2 Q. How did you go from Kurt Salmon to Revlon;  
3 do you recall?

4 A. I got tired of the travel with Kurt Salmon.

5 Q. Tired of going to the south?

6 A. Well --

7 MR. GIGGER: Objection as to form.

8 A. -- they kept me on the road all the time.

9 Q. And can you tell me generally about what you  
10 did with Revlon?

11 A. Other than being a test pilot in the  
12 lipstick division?

13 Q. Well, I was going to ask you in a minute  
14 whether you became an outdoor enthusiast because you  
15 were tired of makeup, but that's neither here nor there.

16 A. I was being groomed in Revlon by the  
17 executive vice-president who was Alex Faberman. And so  
18 they sent me to do different things. I started off what  
19 I call a firefighter in office systems and procedures.  
20 If there was a problem, I was put in there to solve it  
21 so that I understood how the paperwork trail went.

22 And then I became responsible for the  
23 manufacture of all our powder products from raw material  
24 to finished goods inventory. And then I had promotional  
25 distribution and I had 300 people working for me picking

1 the packing and shipping.

2 Q. So it sounds like you had some experience  
3 there in manufacturing and maybe some experience there  
4 in logistics. Did you have any experience with Revlon  
5 in product design or development?

6 A. No, sir.

7 Q. And so getting to the question I was talking  
8 about, what was it that led you leaving Revlon to pursue  
9 I guess your next career?

10 A. Very simple. I -- they had promised me  
11 certain things financially and otherwise, and when push  
12 came to shove they offered me a fraction of what they  
13 had promised. And I was single and I had a boat and a  
14 convertible and I went fishing.

15 Q. And let me ask you this, during your time  
16 after you left the Navy with Triangle Conduit, Kurt  
17 Salmon and Revlon, were you an outdoorsman during that  
18 time as well?

19 A. Yes, sir.

20 Q. And you -- I guess you went fishing during  
21 that time and enjoyed outdoor activities at that time as  
22 well?

23 A. Yes, sir.

24 Q. And so on your resume the position from 1963  
25 to present is entitled outdoor educator and journalist.



1 Have you been more or less independently employed since  
2 1963?

3 A. Yes, sir.

4 Q. And I believe your report mentions that you  
5 have 50 plus years of history in the fishing and outdoor  
6 industries; is that correct, sir?

7 A. That is correct.

8 Q. Is that based on I guess this 1963 date when  
9 you left Revlon and became an outdoor educator and  
10 journalist?

11 A. Yes, sir.

12 Q. What did you do kind of starting out making  
13 that leap, what was the first thing you kind of did?

14 MR. GIGGER: Objection as to form.

15 Q. I'm sorry. I'll ask a better question.  
16 After you left Revlon what was the first thing you did  
17 as an outdoor educator and journalist to make a living?

18 A. I started -- I started writing magazine  
19 stories and I wrote for a regional newspaper and then  
20 Garcia Tackle hired me to write all the instruction  
21 booklets for Mitchell Reels and Beretta Shotguns.

22 Q. Do you recall when about that was when  
23 Garcia hired you to do that?

24 A. Probably around '64, 1964, '65.

25 Q. When did you begin writing articles for

1 newspapers?

2 A. Well, I never really wrote for a major  
3 daily. I put articles in newspapers from time to time  
4 but not on a standard basis.

5 Q. Correct.

6 A. Most of my writing was magazines.

7 Q. Okay. Well, when is kind of the first time  
8 you began writing articles for magazines?

9 A. 1963.

10 Q. And what was that magazine, sir?

11 A. Saltwater Sportsman. That would be my  
12 guess.

13 Q. And just sitting here, do you have any kind  
14 of idea about an approximate number of magazines that  
15 you've wrote articles for in your career?

16 A. No, sir.

17 Q. Would it be more than 50?

18 A. Different magazines?

19 Q. Yes, sir.

20 A. Probably not.

21 Q. Okay. When did you author or contribute to  
22 your first book?

23 A. I don't remember the exact year but I did a  
24 lot of work with marine biologists and I began to  
25 realize that they were talking a language that I had

1 never heard and things about fish and fishing that I had  
2 never heard. And I asked them, I said, "Well, where did  
3 you learn this?"

4 And they said, "Ichthyology 101."

5 And I said, "Well, why don't I know it as a  
6 fisherman?"

7 And they said, "Because you lose status if  
8 you talk to a layperson."

9 And the first book I did I found a biologist  
10 who was willing to give me information and it was called  
11 "Through The Fish's Eye" and I wrote that a long time  
12 ago. It's long out of print.

13 Q. And do you recall approximately when that  
14 was that book was printed?

15 A. I would think around 1970 or the early '70s.

16 Q. And sitting here today can you tell me an  
17 approximate number of how many books you've authored  
18 throughout your career?

19 A. As well as I can count, and I can't remember  
20 all of them, 30 books.

21 Q. And at some point in your career as an  
22 outdoor educator, journalist did you begin working for a  
23 radio?

24 A. Yes.

25 Q. Can you tell me how that came about, sir?

1           A.     Yes. I was at the Marine Lab in Sandy Hook,  
2 New Jersey and WCBS in New York wanted somebody to do  
3 outdoor programming for them. And they said, "We're the  
4 government and we don't do those things, but Mark Sosin  
5 is here and he can do it."

6                     And they hired me to do that. I did eight  
7 broadcasts a weekend each of two-minute length.

8           Q.     And approximately how long did you do those  
9 broadcasts?

10          A.     I did them for five years, sir.

11          Q.     And other than that, those broadcasts, did  
12 you have any other radio experience?

13          A.     Ah, not in my own programming, but I've been  
14 interviewed countless times.

15          Q.     And when you would do that like the radio  
16 experience we just talked about, were you -- did you  
17 become an employee of the broadcasting company or were  
18 you just kind of an independent contractor? I'm just  
19 trying to get an idea of whether you kind of went -- you  
20 were an employee or not.

21                     MR. GIGGER: Objection as to form.

22          A.     I was an independent contractor.

23          Q.     And really I would like to ask that same  
24 general question for your whole career as an outdoor  
25 educator and journalist. During that time were you ever

1 an employee for another company or has it always been  
2 just you on your own as an independent contractor?

3 MR. GIGGER: Objection as to form.

4 A. The only -- I don't know if you consider  
5 this employee, I mean my own company Mark Sosin  
6 Communications.

7 Q. Sure.

8 A. But other than that, I have been an  
9 independent contractor.

10 Q. When is the first time that you began doing  
11 any kind of television programming, sir?

12 A. Well, let's see. This is 2014 --

13 MR. GIGGER: It is.

14 A. -- probably 30 years ago.

15 Q. And can you just tell me generally how you  
16 came to start doing television programming?

17 A. Yes, sir. I was a print journalist and the  
18 Navy taught me to look down the road, always be aware of  
19 what's out there. And I began to realize that young  
20 people were not reading as much. This is before cell  
21 phones and iPads and everything else, but they were  
22 watching television. And if I'm a print journalist and  
23 they're not reading, I'm making buggy whips when the  
24 automobile is putt-putting on the road.

25 And, therefore, I decided I better learn

1 television and that's what pushed me into it.

2 Q. And what was the first programming that you  
3 did for television?

4 A. I started a show -- I had the first  
5 saltwater show in the world. I was going to do fresh  
6 and saltwater, but nobody was doing saltwater so I did  
7 saltwater. And I did it for a company called Sina  
8 Sports (phonetical) out of Little Rock, Arkansas. They  
9 no longer exist. And I went on ESPN in their third year  
10 of operation.

11 Q. And how long did that television program  
12 run, sir?

13 A. Twenty-seven years.

14 Q. And other than that saltwater show, have you  
15 done any other kind of television programming?

16 A. I have done a number of videos for clients.

17 Q. What kind of clients have you done videos  
18 for?

19 A. Well, I've done a bunch of them for the  
20 State of Florida. I did one for the federal government,  
21 or two for the federal government. I did them for IGFA.  
22 I did them for various companies. I made commercials.  
23 I get teased about one all the time.

24 Q. What's that one?

25 A. It was for Pflueger. And the last line

1       said, "Pflueger, it works for me and I know it will work  
2       for you."

3                   And I hear that now, other companies are  
4       using it. But I wrote that line.

5           Q.     So when you say commercials, you were doing  
6       like --

7           A.     Thirty second.

8           Q.     For sponsors for your saltwater show?

9           A.     Yes, sir.

10          Q.     Fishing products, that sort of thing?

11          A.     Yes, sir.

12          Q.     What kind of videos did you do for the State  
13       of Florida?

14          A.     The State of Florida wanted to promote their  
15       research. They have probably one of the finest research  
16       operations in the fishing world and they wanted to  
17       promote this. The last video we did was the Science  
18       Behind Florida's Marine Fisheries. And I've done I  
19       think eight or nine of them, maybe ten of them along  
20       that ilk, one on Artificial Reefs, one on this, whatever  
21       they tell me.

22          Q.     And how about the federal government, what  
23       was that video about?

24          A.     About what, sir?

25          Q.     I believe you testified that you did a video

1 for the federal government.

2 A. Yeah. It was actually 12 videos, and when  
3 you work for the government they tell you what they want  
4 and you just produce it.

5 Q. And do you recall kind of the subject matter  
6 of those videos?

7 A. Pretty much their decision-making process  
8 and, you know, what they did and trying to justify to  
9 fishermen why they did something.

10 Q. Can you help me kind of understand what you  
11 mean by that, what the government did? I'm having a  
12 hard time understanding, that's all.

13 A. Well, there are regional government bodies  
14 that handle fishing around the country. And the one I  
15 did was for the Gulf Council and there were 12 parts to  
16 it. It took two years to do. I don't know what else to  
17 tell you, but --

18 Q. So those videos would have been about the  
19 activities of the Gulf Council; is that fair to say?

20 A. Yeah, to an extent. You know, what they're  
21 doing; why they're doing it.

22 Q. Like making conservation measures or things  
23 like that?

24 A. Yes.

25 Q. And then I you believe you also said you had



1 done one or more videos for IGFA?

2 A. Yes.

3 Q. And just since that's the first time we  
4 talked about that, what does that stand for?

5 A. The International Game Fish Association.

6 Q. And what were the nature of those videos,  
7 sir?

8 A. They wanted a series of how to videos that  
9 they could put on YouTube and, you know, how to tie a  
10 leader. I'm not sure what they were, but that kind of  
11 --

12 Q. So in television we've got your saltwater  
13 show and -- strike that -- I guess video-based things  
14 here including television. You've got your saltwater  
15 based show, you did some commercials, you did some  
16 videos for the State of Florida, some videos for the  
17 federal government, some videos for IGFA. Is there any  
18 other video-based things you've done as an outdoor  
19 educator and journalist?

20 A. I'm trying to think.

21 Q. Sure.

22 A. There could be. I just can't recall them at  
23 this time.

24 Q. Fair enough. And going back to radio, was  
25 your job, the one you told me about earlier, did you say

1 it was with CBS?

2 A. Yes. WCBS New York.

3 Q. Other than that job in radio, did you do  
4 anything else in radio as an outdoor educator and  
5 journalist?

6 A. No, other than being interviewed by a bunch  
7 of people over the years.

8 Q. I think in your report you also mentioned  
9 you've done instructional videos for private  
10 organizations.

11 A. IGFA is private.

12 Q. So that's what you were referring to when  
13 you said that in your report; is that correct, sir?

14 A. Yes.

15 Q. And you mentioned earlier that you had wrote  
16 instruction booklets for Garcia Tackle and Beretta  
17 Shotguns. In your career as an outdoor educator and  
18 journalist have you done anything relating to shooting  
19 sports other than those instruction booklets for  
20 Beretta?

21 MR. GIGGER: Objection as to form.

22 A. Ah, no.

23 Q. Let me just ask you this, sir. You talk in  
24 your report about the fishing and outdoor industries,  
25 and what I'm just trying to understand here is when you

1 say fishing and outdoor industries, what the outdoor  
2 industries part of that -- what you mean by that?

3 A. Well, for example, when I did the radio I  
4 did eight broadcasts a weekend hunting, fishing,  
5 boating, camping, conservation. Fishing is one of four.

6 Q. Hunting, camping and conservation being the  
7 other two?

8 A. Hunting, fishing, boating, camping and  
9 conservation, that's five.

10 Q. Okay. Other than those radio broadcasts  
11 relating to hunting, can you tell me about your other  
12 experiences as an outdoor educator and journalist in the  
13 hunting industry?

14 A. I used to do hunting and I'd write about it  
15 as a freelance writer. But I was so busy in the fishing  
16 business and the fact that when you did television you  
17 wanted to have the first quarter start the first  
18 quarter, January, February, March, okay. And -- because  
19 that's when you had the greatest viewership across the  
20 country.

21 And, therefore, in the fall of the year you  
22 were so busy preparing these shows that there is no time  
23 to hunt. And eventually it fell by the wayside.

24 Q. And do you recall approximately when that  
25 was that it fell by the wayside?

1           A.     Well, probably within 25 years ago.

2           Q.     How about camping, sir, other than the spots  
3 you did in radio, have you done anything in your outdoor  
4 educator and journalist career related to camping?

5           A.     It's hard to answer because I've written  
6 about all kinds of stuff. I can't recall specifically,  
7 but I certainly didn't -- my focus was on fishing and 90  
8 percent of what I did was fishing.

9           Q.     And you also mentioned boating, and I guess  
10 there is some certain overlap between fishing and  
11 boating.

12          A.     Well, I'm in Boating Writers International  
13 Organization as a boating writer and I came up with  
14 terms that they use today like Saltwater Sportsman uses  
15 a term "fishability" on a boat. I used to write about  
16 boats and I came up with the term fishability to take it  
17 away from the guy who's really writing about a boat and  
18 the hull and the whole thing; how does this boat fish.

19          Q.     And the same thing with conservation, I  
20 would assume there is substantial overlap there?

21          A.     I'm always pushing conservation and on my  
22 show I never kept a fish other than bait in 27 years.  
23 Every one of them got released. And we talked about how  
24 to hold them, how to release them and all that and  
25 that's conservation.

1           Q.     And just so I'm clear, when you say fishing  
2     and outdoor industries in your report, the outdoor  
3     industry portion of that you're talking about the  
4     conservation, boating, hunting, camping aspects of your  
5     experience?

6           A.     Would you repeat that so I understand it,  
7     please?

8           Q.     Sure, sure. In your report when you mention  
9     fishing and outdoor industries, the outdoor industries  
10    portion of that statement is referencing the  
11    conservation, boating, hunting and camping aspects of  
12    your experience?

13          A.     I would think most of the outdoor industry  
14    is sponsors, various companies in there. Now, I had  
15    boat sponsors and I did it with boating. You know, it's  
16    hard to explain, but it was a broad thing. When you're  
17    freelancing, you're looking for every opportunity you  
18    can find, and I had the skill and the knowledge to fill  
19    all of that.

20          Q.     Now, I think Exhibit B to your report, sir,  
21    is a list of books and articles. And as I understand  
22    it, you have published over 3,000 articles; is that  
23    correct?

24          A.     Yes, sir.

25          Q.     So certainly the list of articles is not all

1 inclusive?

2 A. And I did 30 books and that's not inclusive  
3 either.

4 Q. Fair enough. Is this exhibit, did you  
5 prepare it specifically for inclusion with this report?

6 A. I did not prepare Exhibit B.

7 Q. Okay. Do you have any idea as to why the  
8 books and articles that are listed were included in  
9 Exhibit B here?

10 A. No. It -- to give you an example of things  
11 I have done. I can't remember every publication I've  
12 written for. I can't remember every book I've written.  
13 In fact, somebody called me recently -- oh, they brought  
14 a book over to be autographed and I said, "I don't  
15 remember writing that." And he opened it up and it says  
16 written by Mark Sosin.

17 Q. What book was that?

18 A. I don't remember.

19 Q. But so -- okay. For example, I just had one  
20 question about the articles here, if you know. It looks  
21 like there is a high number here that were published  
22 between, listed between 2011 and 2014. And then there  
23 is not near as many between 2004 and 2011, and I was  
24 just wondering why there aren't as many for those --  
25 between 2004 and 2011?

1           A.     Because three or four years ago when I  
2     became semiretired I do a monthly column for Coastal  
3     Angler and I do a monthly column for Texas Outdoor  
4     Journal and they were the easiest to get and the most  
5     obvious without researching and that's why most of them  
6     are there.

7           Q.     Tell me about the Coastal Angler, the angler  
8     magazine; what is that?

9           A.     It's a publication given away free. It is a  
10    great success story. A friend of mine started this. He  
11    lived up the coast from here and I always knew it as a  
12    small localized publication.

13                I was at the ICAST show a few years ago and  
14    they had a booth and it had been taken over by somebody  
15    else and they began franchising it. And at that time he  
16    told me that they distribute over 300,000 a month and  
17    now they're close to 600,000 a month. They're in  
18    Bermuda, they're in Hawaii, they're in Alaska, they're  
19    all over. And I just figured it was a great place to  
20    put my name and I do a monthly column.

21          Q.     And can you tell me generally what the  
22    subject matter of those monthly columns are?

23          A.     All fishing. All saltwater fishing.

24          Q.     And how about the Texas Outdoor Journal; can  
25    you tell me a little bit about that?

1           A.     The owner of Texas Outdoor Journal's name is  
2 Bill Olson. He came to me one day and he said, "Would  
3 you write a column for us?"

4                     And I said, "Sure. And what do you want?"

5                     And he said, "Saltwater fishing."

6                     And I said, "I'll write it." And I've been  
7 writing it every since.

8           Q.     And when was that, do you recall, that you  
9 began writing for Texas Outdoors Journal?

10          A.     It's got to be at least four years, four or  
11 five years.

12          Q.     And how about the Saltwater Sportsman, can  
13 you tell me a little bit about that publication?

14          A.     I wrote -- that was the first one I sold a  
15 story to. I was -- I did a monthly column for them for  
16 more years than I can count, and a few years ago I just  
17 stopped doing it. My name is still on the masthead as  
18 an editor at large.

19          Q.     And I think I saw one article from, relating  
20 to a Guy Harvey publication?

21          A.     Yeah, I did one in there.

22          Q.     Can you tell me generally about that?

23          A.     They just asked me to do something and I did  
24 it.

25          Q.     So is it fair to say that was kind of a



1 one-off publication?

2 A. Yes. Yes, sir.

3 Q. Sitting here today are you still regularly  
4 contributing to Coastal Angler?

5 A. Yes, sir.

6 Q. Still regularly contributing to Texas  
7 Outdoor Journal?

8 A. Yes, sir.

9 Q. As I understand your testimony, you're not  
10 regularly contributing to Saltwater Sportsman?

11 A. No. I've been talking to them off and on.  
12 They want me to write for them. They'll buy anything I  
13 write, but I'm getting lazy.

14 Q. And so other than Coastal Angler and Texas  
15 Outdoors Journal, are there any other magazines or  
16 periodicals that you're contributing to regularly today?

17 A. Not on a monthly basis.

18 Q. Any on a more sporadic basis?

19 A. No.

20 Q. And I also saw in your report you mentioned  
21 Double Haul. Can you tell me a little bit about that  
22 publication?

23 A. That was a publication of the Saltwater Fly  
24 Rodders of America and no longer exists.

25 Q. Was that -- would your contributions ever

1 lead to saltwater and fly fishing?

2 A. I'm sorry.

3 Q. Would your contributions to Double Haul have  
4 related to saltwater fly fishing?

5 A. Yes, sir.

6 Q. How about Sports Afield, did you contribute  
7 to --

8 A. I wrote -- I wrote a column there for ten  
9 years every month.

10 Q. Do you recall when those ten years were  
11 about, sir?

12 A. No.

13 Q. And then you also mentioned in your report  
14 that you contributed articles to the International Game  
15 Fish Association?

16 A. Yes, from time to time. And I just did one  
17 for Bone Fish and Tarpon Trust.

18 Q. How many articles have you offered on  
19 eyewear retainers specifically?

20 A. Ah, well, I certainly put it on my website  
21 when I had a website. And I've certainly shown it on  
22 television. I'm not sure I wrote an article on it.

23 Q. So just to make sure I have your testimony  
24 correct today, you just don't recall whether you ever  
25 authored an article specifically on eyewear retainers?

1           A.     No, I do recall.

2           Q.     Can you tell me what that was, sir?

3           A.     I never wrote one specifically on eyewear  
4 retainers. I wrote or I demonstrated the eyewear  
5 retainer that I use.

6           Q.     Let me just ask you a few quick questions  
7 about some of your other experience. In your report you  
8 note that you're a past president of the Outdoor Writers  
9 Association of America?

10          A.     Yes, sir.

11          Q.     Can you tell me when you served as president  
12 for that organization?

13          A.     Actually two and a half, almost three years  
14 but I was only elected for one year. I believe it was  
15 either 1976, '77 or '77, '78, but 1977 is the year I  
16 served.

17          Q.     Do you recall approximately how many members  
18 that organization had at that time?

19          A.     Probably 1,800 around the country.

20          Q.     And you mention in your report an Excellence  
21 in Craft Award?

22          A.     Yes.

23          Q.     Can you tell me little bit about that award?

24          A.     They give one a year for a long period, I  
25 like to call it a lifetime of significant writing.

1 Q. And when was it that you were awarded the  
2 excellence in that award?

3 A. I don't remember the year, but it's in --  
4 every year they publish a directory and in the back of  
5 the directory it will tell you the year, who got it and  
6 what year it was.

7 Q. And can you tell me generally how it's  
8 decided who gets that award?

9 A. I believe it is decided by past recipients.

10 Q. Is it sort of a voting process or nomination  
11 process can you tell me?

12 A. It's a nomination. They ask for nominations  
13 and then they will take whatever nominations they get  
14 and they will put it to a vote. You're voted that. You  
15 just can't win it.

16 Q. And who -- and so as I understand, past  
17 winners have a vote?

18 A. Yes.

19 Q. How about the Ham Brown Award, can you tell  
20 me a little bit about that one?

21 A. The Ham Brown Award likewise, past winners.  
22 It's for service to the organization over a period of  
23 time.

24 Q. The organization being the Outdoor Writers  
25 Association of America?

1           A.     Yes.

2           Q.     I'm sorry. Did you say that award is also  
3 given by past winners through a vote?

4           A.     That is correct. I'm pretty sure of that  
5 because I vote on both of them.

6           Q.     Are those votes confidential?

7           A.     Yes. In fact, they don't announce the  
8 winner until the annual meeting.

9           Q.     So you wouldn't know who another past winner  
10 voted for, correct?

11          A.     No. No, sir.

12          Q.     How about the -- well, are you currently a  
13 member of the Southeastern Outdoor Press Association?

14          A.     Yes, sir, I am.

15          Q.     How long have you been a member of that  
16 organization?

17          A.     Oh, God. A long time. More years than I  
18 can remember.

19          Q.     Do you have any idea about what the  
20 approximate membership of that organization is?

21          A.     I would think it's probably seven or 800. I  
22 may be wrong.

23          Q.     And you received the Lifetime Achievement  
24 Award from that association?

25          A.     Yes.

1 Q. Do you recall about when it was that you  
2 received that award?

3 A. A while back.

4 Q. Any idea sitting here today when that may  
5 have been, sir?

6 A. No, sir.

7 Q. And who votes on -- strike that. How is it  
8 determined who wins that award?

9 A. I don't know. I've never voted on it having  
10 received it. But maybe the officers pick it, I don't  
11 know.

12 Q. And are you still a member of the Florida  
13 Outdoor Writers Association?

14 A. Yes, I am.

15 Q. How long have you been a member of that  
16 association?

17 A. It's hard to recall these things. I've been  
18 a member for years and years and years.

19 Q. And do you know its approximate membership?

20 A. I'm sorry?

21 Q. Do you have an idea about how many members  
22 that organization has?

23 A. No. I'm only guessing what the membership  
24 is, I mean say 400 or something like that.

25 Q. And you received a Lifetime Achievement

1 Award from that association?

2 A. I did. I was shocked.

3 Q. Why were you shocked?

4 A. Because I don't look at myself in that  
5 light. I'm just doing my job.

6 Q. Do you recall when it was that you received  
7 that award, sir?

8 A. No, sir.

9 Q. And do you know how it's determined who  
10 receives that award?

11 A. I've never voted on it so it's determined by  
12 somebody, but not by the prior recipient. The only ones  
13 -- the prior recipients is OWAA.

14 Q. And I believe those are the awards that you  
15 listed in your report, sir?

16 A. Yes, sir.

17 Q. Have you received any other awards in your  
18 career as an outdoor educator and journalist?

19 A. Probably. I received one last year from  
20 IGFA for work I had done in setting up an operation  
21 where they recognized legendary captains and mates.  
22 They have a hall of fame, but they only take five people  
23 a year and I wanted a way that a lot of these captains  
24 who will never get into the hall of fame will receive  
25 some recognition. And the captains have a committee who

1 determines who gets it and I helped found that and I  
2 exceed the thing. And as I was walking off the stage  
3 they asked me to come back and they gave me an award.

4 Q. And other than that award you just told me  
5 about, can you, sitting here today, are there any other  
6 awards not included in your report that you achieved as  
7 an outdoor educator and journalist?

8 A. Probably. I can't remember. I don't pay  
9 much attention to that. I'm grateful for it.

10 Q. And are you a member of the IGFA Hall of  
11 Fame, sir?

12 A. Yes, sir.

13 Q. When were you inducted into that hall of  
14 fame?

15 A. 2004.

16 Q. Can you tell me little bit about how that  
17 process works?

18 MR. GIGGER: Objection to form.

19 A. It has -- from what I understand, it is done  
20 in secret. It is done by a committee of their board of  
21 trustees and that's all I know. They call you up and  
22 tell you they're going to put you in. They take five  
23 people a year from the beginning of time from all over  
24 the world. I was the 55th person to go in.

25 Q. And the -- you're also in the Freshwater



1 Fishing Hall Of Fame; is that correct?

2 A. That is correct.

3 Q. When were you inducted into that hall of  
4 fame, sir?

5 A. Long before IGFA.

6 Q. I guess sitting here do you recall  
7 approximately when that was?

8 A. (No verbal response.)

9 Q. And do you have any knowledge as to how that  
10 selection process works?

11 MR. GIGGER: Objection as to form.

12 A. No. No, they just call you one day and tell  
13 you they're going to put you in.

14 Q. So you hadn't had any say I guess after you  
15 were in about who else gets in?

16 A. No, sir.

17 Q. You're also in the International Fishing  
18 Hall of Fame?

19 A. Yes.

20 Q. Can you tell me a little bit about what that  
21 is?

22 A. It was started by somebody a long time ago  
23 before any of the others. I'd even forgotten about it  
24 until I happened to see the award hanging in my house.  
25 And they just call you one day and tell you you're going

1 to go in and they -- it's called the Dolphin Award and  
2 they just put you in there.

3 Q. And do you have any knowledge as to how that  
4 selection process works?

5 A. No.

6 Q. You also state in your report that you  
7 you've served or currently serve as Director Emeritus of  
8 The Billfish Association?

9 A. Yes.

10 Q. Can you tell me -- first let me ask you what  
11 The Billfish Foundation is, sir?

12 A. The Billfish Foundation is a conservation  
13 organization dedicated to the conservation of billfish  
14 which are sailfish, marlin, swordfish.

15 Q. And I take it that you previously served as  
16 the director?

17 A. I was the director for ten years.

18 Q. And what did you do as director of that  
19 foundation?

20 A. For one thing I ran their office. For  
21 another, I made a couple of videos for them, brings that  
22 to mind. You know, when you have a career for 50 years  
23 and you do so many things, it's very hard to remember  
24 when or where or what you did, you just do it.

25 Q. You also state in your report that you're a

1 former trustee at the University of Florida Whitney  
2 Laboratory?

3 A. Yes, sir.

4 Q. Can you tell me what University of Florida  
5 Whitney Laboratory is?

6 A. To my knowledge they do marine research.  
7 And I was on the board of trustees offering guidance and  
8 I served a term, and I forget how long the term was,  
9 three or four years, and then I let somebody else do it.

10 Q. Do you recall anything specifically you did  
11 as a trustee?

12 A. No. Go to meetings.

13 Q. You also state in your report in paragraph  
14 nine that for more than 50 years you've taught outdoor  
15 techniques to a series of seminars, lectures and  
16 clinics?

17 A. Yes.

18 Q. Can you tell me little about what you're  
19 referring to there?

20 A. Well, it started almost when I started in  
21 the outdoor field. One of the ways I made money was to  
22 give talks to various clubs and various organizations  
23 and get paid for them. At one point in my career, and  
24 it's probably 20 years ago, I started a National Seminar  
25 Series which is still going today and I spent ten years

1 running it and then I sold it to a partner and retired  
2 from it and he still runs it and it's still active.

3 Q. Does that National Seminar Series have any  
4 name?

5 A. Well, now it's the Saltwater Sportsman  
6 National Seminar Series. He worked a deal with  
7 Saltwater Sportsman after I left.

8 Q. What was it called when you were involved  
9 with it?

10 A. National Seminar Series.

11 Q. And what was the subject matter of the  
12 seminars?

13 A. What we did was it would last maybe five or  
14 six hours and we had have various sessions on different  
15 types of fish and fishing, some of it on a broad  
16 national basis, others specifically for the region. We  
17 would have eight of them a year and we would go from  
18 city to city. We could have one in Alabama, Mississippi  
19 or Texas, another one in Massachusetts or Connecticut,  
20 one in Florida, you know, we just moved around, the  
21 Carolinas. And we would get some of the local captains  
22 so we would have four people on the stage at one time.  
23 One of us and probably three or four captains and we  
24 would discuss various things. People loved it. We  
25 packed the house.

1 Q. What was your partner's name that you sold  
2 it to?

3 A. George Poveromo.

4 Q. Other than the National Seminar Series, have  
5 you done any other kinds of seminars, lectures or  
6 clinics?

7 A. Not until tomorrow night. Yes, I have. I  
8 do them all the time and I can't remember all of them,  
9 but I have one tomorrow night.

10 Q. And what is the subject matter of the one  
11 you're giving tomorrow night?

12 A. What I'm going to talk -- they're going to  
13 show two of my old television shows. And I'm going to  
14 talk about outdoor television and a little bit about  
15 what I did and why I did it and -- I haven't figured it  
16 out yet, but I will by tomorrow night.

17 Q. Mr. Sosin, do you understand that you've  
18 been disclosed by Chums as an expert witness in this  
19 matter?

20 A. That I have been what?

21 Q. Disclosed by Chums as an expert witness?

22 A. What does "disclosed" mean?

23 Q. Disclosed to my client, Cablz, as an expert  
24 witness in this matter?

25 A. Yes.

1           Q.     Are you being compensated to serve as an  
2 expert witness, sir?

3           A.     Yes.

4           Q.     How are you being compensated?

5           A.     I'm being paid for the time I spend.

6           Q.     At what rate, sir?

7           A.     \$250 an hour for the basic work; \$300 an  
8 hour when you ask me questions.

9           Q.     And other than that hourly compensation, are  
10 you being compensated in any other way for your services  
11 as an expert witness in this case?

12          A.     No, sir.

13          Q.     In your career as an outdoor educator and  
14 journalist have you ever been compensated on an hourly  
15 basis?

16          A.     I can't remember.

17          Q.     Do you recall being compensated -- well,  
18 strike that. Have you ever been compensated on an  
19 hourly basis at \$250 an hour or greater?

20                 MR. GIGGER: Objection as to form.

21          A.     Not that I can remember.

22          Q.     What did you do to prepare for this  
23 deposition today, sir?

24          A.     What did I do to prepare for it? For one  
25 thing, I looked at this printed testimony.

1 Q. And I believe you're referring to your  
2 report, sir?

3 A. Yes.

4 Q. Other than looking at your report, did you  
5 review any other documents?

6 A. Well, I had read the report of Mr. Jernigan  
7 and whatever the other man's name was. Other than that,  
8 I can't think of much that I did.

9 Q. And I don't want to know about any  
10 conversations you had with Chums' counsel, but other  
11 than that, did you speak with anyone to prepare for your  
12 deposition here today?

13 A. No. The only one I spoke with is Mr. Gigger  
14 over here.

15 Q. So other than reviewing your report and the  
16 reports of Jernigan and Chisolm, is that all you've done  
17 to prepare for your deposition here today?

18 A. Yes.

19 Q. Are you prepared here today to testify about  
20 your final opinions to be offered in the trial of this  
21 matter?

22 A. Yes.

23 MR. GIGGER: Object to form.

24 Q. When was it, sir, that you learned that my  
25 client, Cablz, had filed a lawsuit against Chums in

1 Alabama?

2 A. Umm, I was unaware of it until I was called  
3 to ask for information on what I had done with  
4 retainers.

5 Q. And who was it that contacted you?

6 A. The law firm of Stoel and Rives.

7 Q. And when was it that they contacted you,  
8 sir?

9 MR. GIGGER: To the extent you know. If  
10 you don't know --

11 A. I don't know exactly. My guess is within  
12 the last year.

13 Q. Have you been contacted by a company by the  
14 name of Croakies regarding the lawsuit that's been filed  
15 against them in Alabama, sir?

16 A. No, sir.

17 Q. When was it that you were engaged by Chums  
18 to serve as an expert in this case?

19 A. July 1st, 2014.

20 Q. And, sir, using that date as the date when  
21 you were engaged, does that bring back any recollections  
22 of perhaps when you were first contacted by them about  
23 the lawsuit?

24 A. No. There was very little discussion about  
25 the lawsuit.



1           Q.     I don't want you to get into discussions  
2     that you had with them. I'm just asking about dates of  
3     contact, sir.

4           MR. GIGGER: Just to make it clear, our  
5     conversations are not the subject of this deposition.  
6     You can tell him to the extent you know the dates  
7     that we talked, but --

8           A.     I don't remember when they first contacted  
9     me, but I know that it started, the actual expert  
10    witness bit started July 1st, 2014.

11          Q.     And so do you know whether it was a matter  
12    of weeks or months prior to that official engagement  
13    date that you first learned about this lawsuit?

14          A.     No.

15          Q.     For what purpose or purposes have you been  
16    engaged as an expert witness in this case, sir?

17          A.     Ah, pretty much to discuss what I've been  
18    using for 50 years.

19          Q.     And you're referring to what you've been  
20    using as an eyewear retainer, sir; is that correct?

21          A.     That is correct.

22          MR. GIGGER: Do you need a break? Are  
23    you okay?

24          THE WITNESS: Whatever you want.

25          MR. GIGGER: I'm fine.

1           Q.     Sir, what materials did you review in the  
2 course of forming your opinions in this matter?

3           A.     I'm not sure I understand the answer you  
4 want or what you're saying.

5           Q.     Sure. You've been engaged as an expert in  
6 this matter and as you said to discuss the eyewear  
7 retainers that you've been using; is that correct?

8           A.     Yes.

9           Q.     And in the course of forming opinions about  
10 that I'm just asking what materials you reviewed?

11          A.     Monofilament.

12          Q.     And can you, just so the record is clear,  
13 can you tell me what you're holding in your hand there?

14          A.     Yes. I'm holding a pair of my glasses with  
15 an old description and it has monofilament on it and a  
16 retainer made out of bait rigging floss and it's just  
17 attached to it like that and I've been doing that for,  
18 well, 40 plus years.

19                 MR. GIGGER: So the record is clear,  
20 maybe we should -- do you want to point out that  
21 there are two pairs of glasses and eyewear retainers  
22 attached to them that were marked as Exhibits 9 and  
23 10 from the Visser deposition?

24                 MR. HILL: Yeah. Let's go ahead and  
25 call those Exhibits 2 and 3.

1 MR. GIGGER: I don't think you -- do you  
2 need to mark them again?

3 MR. HILL: Well, I'm going to mark them  
4 for this deposition. I'll call them two and three.

5 THE WITNESS: Okay.

6 MR. HILL: Exhibit 2 being what you're  
7 holding in your hand.

8 THE WITNESS: Do you want to mark it?

9 BY MR. HILL:

10 Q. Other than these two retainers, sir, is  
11 there anything else you've brought with you here today?

12 A. Three videos I did. A book and a DVD. Do  
13 you want me to pass them down to you?

14 MR. HILL: Yes, please. Just so the  
15 record is clear I will just refer to these two  
16 retainers that you brought with you here today as  
17 Plaintiff's Exhibits 9 and 10 from Visser. There is  
18 no need for me to relabel those.

19 I will label the materials that you  
20 brought here today, the videos, DVD and the book as  
21 Plaintiff's Exhibit 2.

22 (Exhibit 2 is marked for  
23 identification.)

24 So other than these two retainers, sir,  
25 and the DVD, videos and book, are those all the

1 materials you brought with you here today?

2 A. Yes.

3 Q. Are you okay to keep going or would you like  
4 to take a break, sir?

5 A. Do you want a break?

6 MR. GIGGER: It's up to you. I'm okay.

7 THE WITNESS: Let's go another 15  
8 minutes or so.

9 Q. All right. How did you get into fishing?

10 A. Fishing in general?

11 Q. Yes, sir, fishing.

12 A. My father fished. He started me when I was  
13 three-years old. I'm 81. If you do the math, I've been  
14 fishing 78 years.

15 Q. And when, in the course of fishing, did you  
16 first begin using an eyewear retainer?

17 A. When American Optical came out with their  
18 first series of polarized sunglasses and that goes back  
19 over 50 years.

20 Q. Throughout your career and life as a  
21 fisherman, how many different kinds of eyewear retainers  
22 have you worn?

23 A. Two.

24 Q. Can you tell me what those are, sir?

25 A. Yes. When American Optical came out with

1     their glasses, the temple bars were much thicker and the  
2     back was thicker. We used to drill a hole through here  
3     about, oh, I would say a quarter of an inch in from the  
4     end of the temple bar. We would take a file and file  
5     the back of the temple bar, take a small drill and go in  
6     there until we drilled into the hole we made here. Then  
7     would take this monofilament, push it through and out,  
8     either flare the end with flame or tie a knot and pull  
9     the knot back into this hole. And the mono came out of  
10    the back of the glasses like that (indicating).

11           At some point they got fancy with these  
12    glasses and they made the temple bars much thinner and  
13    there was no way you could drill through here and  
14    through there. And I looked at it and said I've got to  
15    come up with a way. Now, I didn't originate the first  
16    one. Guys were using that and I learned from them. But  
17    the second one when I got my new glasses and I couldn't  
18    do what they had done, I came up with this. And I took  
19    bait rigging floss and I flared the end of the  
20    monofilament, wrapped it as a retainer and that was it.  
21    I started with hundred pound. I wanted it to stay off  
22    my neck and I started with hundred pound test, that  
23    didn't work. Two hundred pound test, that didn't work.  
24    Put 300 pound on it, it's perfect. It took all of a  
25    half-hour to figure it out.

1 Q. So you never used a neoprene retainer?

2 A. No.

3 Q. Never used a leather retainer?

4 A. No.

5 Q. Can you tell me generally why it is that you  
6 use a retainer for your sunglasses, sir?

7 A. Yes. Several things happen when you're  
8 fishing. Number one, you want your sunglasses there all  
9 the time so that -- they're polarized and whether you're  
10 fishing offshore or inshore, you can see better under  
11 water with polarized lenses so I want them there. I  
12 don't want to lose them in the heat of battle. When you  
13 see a fish, it's now. You can't say, well, let me get  
14 my glasses and put them on, it's now. I can pop these  
15 things on if I need to. If I want a short thing here so  
16 I can put a rod in here (indicating), and if something  
17 happens they're not going to pull out, they're not going  
18 to fall. They're here. They don't come loose.

19 Q. Do you view retainers as more of a function  
20 device or an aesthetic device?

21 MR. GIGGER: Objection as to form.

22 A. It's a function I believe. If you mean  
23 function -- you know, do I wear these just so people  
24 say, hey, look at him, he's got this on, no. It's  
25 functional. I wear them when I get up in the morning

1 until night falls at night.

2 Q. When is the first time you recall seeing  
3 anyone using a monofilament eyewear retainer?

4 A. When American Optical first came out with  
5 their glasses 50 plus years ago.

6 Q. Do you recall when that was or where it was,  
7 any of the circumstances about which you saw?

8 A. Well, the first ones I saw were in South  
9 Florida. There were a group of fishermen that I  
10 called -- I nicknamed the Young Turks and these guys  
11 were on top of everything. I learned a tremendous  
12 amount from them. Guys like Norman Jansic, Norman  
13 Duncan, Al Pflueger, Bob Sterns, the late John Emery  
14 (phonetical). Guys like that that not only did they do  
15 this, but they modified rods, they modified reels, they  
16 developed techniques for catching big fish on light  
17 tackle. And those were the guys that started this.

18 My contribution was, as I said, when the  
19 temple bars got too thin and I need a temple bar  
20 retainer on there, I came up with this system of just  
21 wrapping it on and it works and I never changed it in 50  
22 years.

23 Q. And those gentleman you referred to as the  
24 Young Turks, were they fishermen in Florida?

25 A. Yes. But also there were guys like Danny

1 Blanton in California, Bob Edgeley in California, people  
2 all over. All the guides in Florida at that time used  
3 to use it in South Florida. I mean I didn't check the  
4 whole country obviously, but serious fishermen use  
5 retainers.

6 Q. Do you still keep in contact with any of  
7 those gentleman you've mentioned?

8 A. I see Al Pflueger once in awhile. Norm  
9 Jansic is dead. John Emery is dead. I exchange e-mails  
10 with Bob Sterns almost every day. I talk to Dan Blanton  
11 once in awhile. Bob Edgeley gave up fishing.

12 Q. And you mentioned, sir, that some of these  
13 gentleman were fishing down in South Florida. How was  
14 it that you came to know about them being out in South  
15 Florida, were you down there in the 1950s fishing at any  
16 time?

17 A. Well, for one thing, when I got out of the  
18 Navy in 1957, I went down to Florida Keys and lived  
19 there for a month, five weeks and just fished.

20 My father loved Florida. He started  
21 bringing me here when I was five years old. When I was  
22 six, I think I was six, the Overseas Highway to Key West  
23 opened July 4th, 1938. You can check that. In January  
24 of 1939 he took me to Key West. He taught me to fish  
25 the Keys. I used to come down all the time. I walked



1 the bridges, I waded the flats, I did all kinds of stuff  
2 down here and I knew the guys that also did that.

3 Q. In your report you mention in paragraph 12  
4 in South Florida during the 1950s there were a number of  
5 leading shallow water fishermen such as John Emery and  
6 Al Pflueger that used monofilament eyewear retainers.

7 MR. GIGGER: Where did you say you're  
8 reading?

9 Q. Paragraph 12.

10 A. 12.

11 Q. In paragraph 12 you mentioned monofilament  
12 eyewear retainers worn by John Emery and Al Pflueger?

13 A. Yes.

14 Q. What kind of retainers are you talking about  
15 there?

16 A. The ones in those days back then, as I  
17 mentioned earlier, where the temple bars were thicker  
18 was drilling a hole through here and a hole through  
19 there, sticking the mono through, putting -- excuse me,  
20 either a knot or flare it and pull it back in the hole.  
21 There is a picture in -- well, I guess it's in here and  
22 it's hard to see, but Lefty Kreh is wearing a pair of  
23 glasses with that system.

24 Q. That might be Exhibit C, sir. Can you take  
25 a look real quick so we'll be on the same page about

1     what picture you're referring to?

2             A.     C, yeah.  It's hard to see in here in a  
3     copy, but --

4             Q.     By page number of your report can you direct  
5     me to what photograph you were just referencing?

6             A.     Yes.  Page 19, Exhibit C.

7             Q.     And this would be the retainer that required  
8     the drilling?

9             A.     Yes, as I remember.  I'm pretty sure.

10            Q.     Sir, when you -- the retainer where you  
11     drill into the glasses, did that retainer stay off the  
12     neck when it was worn?

13            A.     Oh, yeah, yeah.  It -- the whole thing of  
14     staying off the neck is what you use.  You can't bend  
15     this thing (indicating).

16            Q.     And you're referring to --

17            A.     The monofilament, 300-pound test mono.  
18     People like different things.  Some people don't care if  
19     it hits their neck, others do.  I did.  That's why I  
20     came up with this to make sure it stayed off my neck.  
21     And 300-pound mono you can't bend it or keep it down  
22     there, it will pop right back up.

23            Q.     I understand that, sir.  I guess my question  
24     relates to the first type of eyewear retainer you were  
25     telling me about.

1 A. Same thing.

2 Q. Those stay off the neck when worn, sir?

3 A. Sure. Depending on the mono you use.

4 Q. Also in paragraph 12 of your report you  
5 state, "The concept of using a monofilament eyewear  
6 retainers goes back at least 50 or 60 years in the  
7 fishing and outdoor industry."

8 A. Yes.

9 Q. You give a range of years there, is that  
10 because you don't know exactly when the concept was  
11 first introduced?

12 A. It was somewhere in the late '50s. But to  
13 make sure that I didn't stretch it too far back, I put  
14 50 or 60.

15 Q. In paragraph 14 you mentioned that the type  
16 of monofilament line used by fishermen over the years  
17 varied.

18 A. Sure.

19 Q. Can you tell me generally what you mean by  
20 that?

21 A. They kept improving it, the manufacturers.  
22 DuPont was the first and -- I think they were the first,  
23 at least in this country, and then Berkley did it and  
24 they kept improving it. But we all had mono. Mono was  
25 a common thing and it was the obvious thing to use and

1 it -- when you look at this --

2 Q. Let me stop real quick, sir. You're  
3 referring to your glasses that you're currently wearing  
4 during your testimony. And just so we're clear, I would  
5 ask that you feel more free to use one of these  
6 exhibits. So we'll know what it is you're referring to.

7 A. Yeah, I'll be glad to. There is no  
8 difference between these exhibits and what I'm wearing.

9 Q. That was my next question is to make sure  
10 what you're wearing now there is no difference in that  
11 and Plaintiff's Exhibit 9 from the Visser deposition?

12 A. (No verbal response.)

13 Q. And you're showing me those --

14 MR. GIGGER: Go ahead.

15 Q. You're showing me those to demonstrate there  
16 is no difference, correct?

17 A. I'm showing you my current glasses against  
18 one of these pairs. There may be a quarter of an inch  
19 difference in where I put that, but that's just luck of  
20 the draw, you know.

21 Q. And also here is Plaintiff's Exhibit 10 from  
22 the Visser deposition. Do you know why both of those  
23 are exhibits? Is there any difference between  
24 Plaintiff's Exhibit 9 and Plaintiff's Exhibit 10 from  
25 the Visser deposition?

1           A.     No. No, I just I had these laying around.  
2     They're an old prescription. Both of them are old  
3     prescriptions and I just brought two of them. I can  
4     probably find another one or two laying around.

5           Q.     Well, sir, if you don't mind, if you need to  
6     reference a retainer, just using one of those that's  
7     already been marked as an exhibit just so we'll be clear  
8     on what you're referring to.

9                     Anyway, you were telling me that different  
10    kinds of monofilament line have been used over the years  
11    and in your reports you say that it varied. And I was  
12    just wondering how --

13          A.     It varies in breaking strength and what you  
14    want to do and it varies -- they kept improving  
15    monofilament over the years from the original  
16    monofilament. Obviously, like in any industry, as time  
17    goes by, they need to come out with new products and  
18    they try and make the new products better. So as the  
19    years went by -- but if you look at this, I mean if you  
20    look at the two exhibits we have, what are they 10 and  
21    11 or --

22          Q.     I believe they're 9 and 10 from the Visser  
23    deposition.

24          A.     Nine and 10. If you look at 9 and 10, that  
25    monofilament came off the same coil. And the one I'm

1       wearing came off the same coil. And I've got plenty of  
2       it there, enough for a lifetime. So that's all I would  
3       use.

4               MR. GIGGER: That would be 300-pound  
5       monofilament, sir?

6               THE WITNESS: Three hundred-pound made  
7       by Berkley.

8               Q.       Regarding the first kind of retainer that  
9       you were talking about that required drilling into the  
10       glasses, are you aware of any evidence of that kind of  
11       retainer in existence today?

12              A.       No, no. It would be pretty hard to do with  
13       the way the temple bars are now.

14              Q.       I guess I'm asking you you're not aware of  
15       any old pair laying around that exemplifies --

16              A.       Oh, I don't know. Somebody may have an old  
17       pair laying around like that, but --

18              Q.       You are not aware of it?

19              A.       I'm not aware of it. I don't remember  
20       seeing it.

21              MR. GIGGER: Just to be clear, you  
22       mentioned this picture in Exhibit C as that first  
23       type of eyewear retainer?

24              THE WITNESS: As what?

25              MR. GIGGER: He asked if you're aware of

1 any evidence.

2 THE WITNESS: Well, yeah, the picture in  
3 Exhibit C.

4 Q. Photographs?

5 A. Photograph.

6 Q. But I guess in terms of an actual example  
7 like we have here, we're looking at here, do you know of  
8 any actual examples of that?

9 A. No. I haven't seen that recently.

10 Q. Going back to Exhibit C of your report, we  
11 talked a second ago about a photograph of I believe  
12 Mr. Kreh --

13 A. Yes.

14 Q. -- page 19. Are you there, sir?

15 A. Yes.

16 Q. And your testimony is in that picture he's  
17 wearing a retainer that was tied onto his glasses by  
18 drilling holes?

19 A. It looks like it to me when I looked at the  
20 original picture. It's hard to tell, but it looked like  
21 it. I only know of the two ways. Well, I don't. I saw  
22 a man on an airplane two weeks ago flying from Atlanta  
23 to Fort Lauderdale and I sat in row 16, he sat in row  
24 15. And I happened to look, he's got a piece of  
25 monofilament coming from his glasses.

1                   So I asked him. He said, "These are my  
2 regular glasses but I don't use them to read, but I want  
3 my glasses there all the time and I put this on."

4                   I said, "What kind of knot did you use?"

5                   He said, "I use a basic clinch knot,  
6 17-pound test monofilament."

7                   And I don't know who the man was but I could  
8 tell you he was in seat 15 E.

9           Q.       And that was a couple weeks ago, sir?

10          A.       Yeah.

11          Q.       Is Mr. Kreh still alive today, sir?

12          A.       Yes, he is.

13          Q.       Do you know where he resides?

14          A.       He resides in Maryland.

15          Q.       And I believe Exhibit C is excerpts from a  
16 book authored or involving Mr. Kreh and a gentleman by  
17 the name of David DeSilva?

18          A.       That's another picture in the book. David  
19 DeSilva lives in Bermuda.

20          Q.       Is he still alive today?

21          A.       I don't know.

22          Q.       And you mentioned earlier a gentleman by the  
23 name of George Poveromo?

24          A.       Yes.

25          Q.       Can you tell me a little bit about him; who



1 is he?

2 A. He has a television show. He's a writer.  
3 Writes a column in Saltwater Sportsman.

4 Q. Did he ever wear a monofilament eyewear  
5 retainer?

6 A. I have no idea.

7 Q. Either in your report or perhaps in some of  
8 the materials produced in this case a gentleman by the  
9 name of Larry Dahlberg has come up.

10 A. I know Larry Dahlberg.

11 MR. GIGGER: Objection as to form.

12 Q. Who is Mr. Dahlberg?

13 A. Well, he's done some outdoor writing and  
14 goes around the world trying to catch big fish.

15 Q. Do you know whether he ever wore a  
16 monofilament eyewear retainer?

17 A. No.

18 MR. GIGGER: So did you mean, no,  
19 doesn't or, no, you don't know.

20 THE WITNESS: No, I don't know. I  
21 really don't pay attention to it.

22 Q. In paragraph 15 of your report you mention  
23 an eyewear retainer attributed to Bing McClellan?

24 A. Yes.

25 Q. Can you tell me who Mr. McClellan is?

1           A.     He's dead, died a long time ago. And I  
2     can't remember the business he had, but he had something  
3     in fishing tackle and apparently he felt that instead of  
4     just having the monofilament stand back out here, that  
5     if he coiled it it would have spring to it and it would  
6     just fit across the back of your head. And he tried to  
7     market that and I don't think he was very successful.

8           Q.     Do you remember where it was that his  
9     product was sold?

10          A.     No, sir.

11          Q.     And you don't remember his company name or  
12     --

13          A.     No. I tried to, but --

14          Q.     How about the name of the product?

15          A.     No.

16          Q.     Are you aware of any evidence of those -- of  
17     that product?

18          A.     (No verbal response.)

19          Q.     Is that a no?

20          A.     I'm sorry. No, sir.

21          Q.     Thank you. Are there any other specific  
22     fishermen who wore monofilament retainers that you can  
23     tell me about sitting here today?

24          A.     Well, alive or dead?

25          Q.     Either one, sir.

1           A.     Well, I can tell you John Emery. I can tell  
2     you Norman Jansic. I can tell you Norman Duncan. I can  
3     tell you Al Pflueger. I can tell you a bunch of guides.

4           Q.     Do you recall what kind of retainers  
5     Mr. Emery wore?

6           A.     John was -- John was an originator of a lot  
7     of things. He may have been an originator of the first  
8     method of drilling through. I'm not sure of that, but  
9     he was certainly one of the early pioneers. He died  
10    very young.

11          Q.     And so he may have worn ones where you  
12    drilled through the glasses and tied --

13          A.     We all did it like that until they changed  
14    the temple bars.

15          Q.     And I believe you said Mr. Nansic?

16          A.     Jansic.

17          Q.     Jansic. Do you recall what kind of eyewear  
18    retainers he wore?

19          A.     Same thing.

20          Q.     And Mr. Duncan?

21          A.     In the early days, the same thing. They all  
22    wore the same thing. I mean they talked to each other,  
23    or you look at each other, "Gee, how'd you do that?"

24          Q.     And Mr. Pflueger, same thing?

25          A.     Yeah.

1           Q.     In paragraph 17 of your report, sir, you  
2     reference, "Eyewear retainers that extend rearward from  
3     the head while staying off the neck have been in public  
4     use for 40 or more years, however, by fishermen and  
5     other outdoor enthusiasts."

6                     What eyewear retainers are you referring to  
7     in that paragraph, sir?

8           A.     I hold up Exhibit 9 and show you that that  
9     stands off the neck. And the earlier ones stood off the  
10    neck, too. It's just a matter of how heavy the  
11    monofilament was.

12          Q.     And you're holding up Exhibit 9 from the  
13    Visser deposition I believe?

14          A.     Exhibit 9, yeah.

15          Q.     And you said the earlier ones in your  
16    testimony and you're referring to the ones that are  
17    drilled through the sunglasses?

18          A.     Yes. I only know two methods at that point,  
19    drilling through and what I did.

20          Q.     And sitting here today I believe you  
21    testified earlier that those are the only two methods of  
22    tying monofilament to sunglasses that you're aware of?

23          A.     No.

24                     MR. GIGGER: Object to the form.

25          A.     I take that back. I take that back after I

1 saw the guy on the plane.

2 Q. Okay. The guy flying, other than him --

3 A. Three.

4 Q. Three.

5 A. Well, you can either tie a knot or you can  
6 do it this way or you can drill the back or come up with  
7 your own method.

8 Q. I guess what I'm asking is are there any  
9 other methods that you're aware of that we haven't  
10 talked yet about today?

11 MR. GIGGER: Objection as to form.

12 A. I know there is product that you can just  
13 stick on the back here and I chose not to use those. I  
14 don't mean the product that's on the market, but I don't  
15 want removable retainers. I want it on there. It's not  
16 coming off in the heat of battle no matter what happens,  
17 you yank it, you pull it, whatever you do it's there.

18 Q. So your retainer there is different from the  
19 one that would be removable, correct?

20 A. Yes. I mean you can take it off by cutting  
21 it off and then re -- put another one on there, but it's  
22 made not to come off.

23 MR. HILL: I'm going to stop at this  
24 point and take a break. I know we've been going for  
25 a while.

1 MR. GIGGER: Great.

2 (Brief recess is taken.)

3 BY MR. HILL:

4 Q. Mr. Sosin, we took a short break, but you  
5 understand, sir, that you're still under oath, correct?

6 A. I do.

7 Q. Tell me what you can about the first time  
8 you made an eyewear retainer out of monofilament?

9 A. I made an eyewear retainer out of  
10 monofilament when I got my first pair, excuse me, of  
11 American Optical Polarized Sunglasses and that would be  
12 in the late 1950s. I may have had it, may have gotten  
13 them when I went down to the Keys and lived there for a  
14 while.

15 Q. And do you recall how long it took you to  
16 add the monofilament to the sunglasses?

17 A. It did not take long to add the monofilament  
18 because, as I said, I wasn't the first one to do it and  
19 I knew people who did it and they told me how to do it  
20 and it took a file and a drill bit.

21 Q. And after you did that for the first time  
22 did you do any kind of testing on that retainer?

23 A. No.

24 Q. Did you make any improvements or  
25 modifications to that retainer?

1 MR. GIGGER: Objection as to form.

2 A. Not until -- not until they changed the  
3 glasses.

4 Q. And what did you do at that time?

5 MR. GIGGER: Objection as to form.

6 A. Well, as I said earlier, they had made the  
7 temple bars a lot thinner than they were originally and  
8 it was very difficult -- you could drill a hole through  
9 the side, but to drill a hole at right angles from the  
10 back of the temple bar wouldn't work. I couldn't get a  
11 drill bit small enough to do that and so I came up with  
12 the idea of using a retainer made out of bait rigging  
13 floss. You could use dental floss and just wrap it and  
14 it stays. And I've used that for 50 years, never  
15 changed it.

16 Q. You said you never changed it. Once you  
17 came up with that retainer you haven't changed it since?

18 A. That is correct. You can see that there are  
19 two pairs of simple glasses here with the same thing and  
20 the one I'm wearing, which is my latest prescription  
21 which just came a couple of months ago, has the same  
22 thing.

23 Q. So referring to Plaintiff's Exhibit 9 from  
24 Visser, do you recall when it was that you created that  
25 retainer, sir?

1           A.     No, sir. I don't even know when I used that  
2     prescription. And I don't know which one of the two  
3     came first.

4           Q.     And Plaintiff's Exhibit 10 you don't know  
5     when --

6           A.     No.

7           Q.     -- you made that retainer?

8           A.     I just have old glasses pushed aside and I  
9     found those two and that was it.

10          Q.     Throughout your career in the outdoors and  
11     fishing, did you have sunglass manufacturers give you  
12     free sunglasses?

13          A.     Yes.

14          Q.     Who gave you free sunglasses that you can  
15     recall, sir?

16          A.     The only one was Costa.

17          Q.     Do you recall when it was that they were  
18     providing you with sunglasses?

19          A.     No. I knew a sales rep and he got them for  
20     me.

21          Q.     But you don't recall about when that was,  
22     sir?

23          A.     (No verbal response.)

24          Q.     About how many pairs of sunglasses has Costa  
25     provided you in your career for free?



1           A.     Well, I get them free now and every time  
2 they change a prescription I get two pairs. You have to  
3 have backup.

4           Q.     And is that under any kind of agreement you  
5 have with Costa or is that just --

6           A.     At this point I do have an agreement with  
7 Costa.

8           Q.     And can you tell me a little bit about what  
9 kind of agreement that is?

10           MR. GIGGER: Objection as to form.

11           A.     I do some consulting work for them and they  
12 pay me.

13           Q.     And as part of that agreement they provide  
14 you with sunglasses; is that correct, sir?

15           A.     Yeah. I get two pairs every time they  
16 change my prescription.

17           Q.     And how long has that agreement been in  
18 place?

19           A.     I would think -- I don't know exactly, but I  
20 would think three or four years.

21           Q.     Are there any other sunglass manufacturers  
22 that you have agreements with?

23           A.     No.

24           Q.     Do you have any of those -- strike that.  
25 Has Chums ever provided you with any products in your

1 career as a fisherman?

2 A. No, sir.

3 Q. Has Croakies ever provided you with products  
4 in your career as a fisherman?

5 A. Not that I can recall.

6 Q. Going back to the first eyewear retainer you  
7 told me about today that involved the drilling, did you  
8 ever break a pair of sunglasses when you're trying to  
9 drill?

10 A. No.

11 Q. Did you ever damage a pair of sunglasses  
12 when you were trying to drill through them?

13 A. Not to my knowledge.

14 Q. And it's your testimony that that retainer  
15 could stay off the neck when worn by a wearer?

16 A. Absolutely.

17 Q. I would like to direct your to paragraph 19  
18 of your report, sir. You state there, "My ultimate goal  
19 in developing a new system for creating monofilament  
20 eyewear retainers and attaching the monofilament line to  
21 the temple bars of my glasses centered on keeping the  
22 monofilament line off my neck."

23 Can you tell me, sir, why that was your  
24 ultimate goal?

25 A. Because anything on the back of my neck in

1 the hot sun irritated it, and therefore, I don't like  
2 things on the back of my neck and I wanted it to stand  
3 clear.

4 Q. Well, were the first kind of retainers you  
5 were making by drilling, were they not staying off your  
6 neck?

7 A. No. Maybe this is not as clear as it should  
8 be. What I meant to say was I did that with the first  
9 retainers, too, and with the second retainers. It  
10 bothers me to have it on my neck and so I made sure it  
11 stayed off my neck.

12 Q. And now talking about the, I'll call it the  
13 second retainer, the one that we have several exhibits  
14 of here.

15 MR. GIGGER: Visser Exhibits 9 and 10.

16 MR. HILL: Thank you.

17 Q. Do you recall approximately when you  
18 developed those for the first time?

19 A. Are you asking me when I developed this type  
20 of retainer?

21 Q. I'm sorry. That was a bad question. Yes,  
22 sir. I'm just trying to figure out about when it was  
23 for the first time you made a retainer as demonstrated  
24 like Visser Exhibit 9?

25 A. I would have to guess, but my guess is 50

1 years ago.

2 Q. And if I understand your testimony  
3 correctly, at least one reason you did that was because  
4 the temple bars on the sunglasses changed; is that  
5 correct?

6 A. That is correct.

7 Q. Are there any other reasons that kind of  
8 inspired or caused you to create that retainer?

9 A. No.

10 Q. And I believe you -- strike that. I believe  
11 in your report you state that your development of that  
12 retainer was simple and straightforward, correct?

13 MR. GIGGER: Objection as to form.

14 A. Yes. It didn't take very long to figure it  
15 out.

16 Q. And actually I think you stated before it  
17 took only a matter of minutes; is that correct?

18 A. Yeah, half an hour. But what I did -- I  
19 don't have to elaborate, but what I did was just -- I  
20 tried one, it didn't work, put the second one in, it  
21 didn't work, put the third one in, it worked, done.

22 Q. When you say tried one, are you referring to  
23 the kind of monofilament that you were using?

24 A. The breaking strength which affects the  
25 diameter of the monofilament.

1           Q.     I'm sorry. Can you explain that a little  
2 bit what you said?

3           A.     Yes. The greater the diameter of the  
4 monofilament, the greater the breaking strength of the  
5 monofilament. So I kept moving up in breaking strength  
6 so that the diameter would be thicker and it would stand  
7 off my neck. It's simple.

8           Q.     What kind of fish would you try and catch  
9 with 300-pound monofilament?

10          A.     I don't use 300-pound mono very often for  
11 anything. They'll use it sometimes for swordfish.  
12 They'll use it for -- as an abrasion leader. That's  
13 basically what it is. It's leader material. It's  
14 certainly not fishing line.

15          Q.     Other than the retainer that required  
16 drilling into the sunglasses and the second retainer  
17 that you were talking about, have you developed any  
18 other kinds of eyewear retainers?

19          A.     No, sir. When I developed this retainer I  
20 was happy with it and I stuck with it.

21          Q.     Have you participated or assisted in any way  
22 with the design of any other eyewear retainer?

23          A.     No, sir.

24          Q.     Have you ever designed any other products  
25 relating to eyewear retainers?

1 A. No.

2 MR. GIGGER: Objection as to form.

3 Q. How about have you ever designed any  
4 products relating to glasses?

5 MR. GIGGER: Objection as to form.

6 A. Not that I can remember.

7 Q. Have you ever had any formal training in  
8 product design?

9 A. No.

10 Q. Any industrial design classes?

11 A. Never.

12 Q. Any computer-based simulation design  
13 training?

14 A. They didn't have them when I went to school.

15 Q. Any failure mode analysis training?

16 A. What kind?

17 Q. Failure mode analysis?

18 A. No.

19 Q. In the course of obtaining your degree in  
20 economics did you take any classes relating to product  
21 design?

22 A. That's not how you get an economics degree.

23 Q. Any classes relating to product development?

24 A. No.

25 Q. Any experience in product design or

1 development during your time in the military?

2 A. No.

3 Q. Any experience in product design or  
4 development in Triangle Conduit and Cable?

5 A. No.

6 Q. Any experience in product design or  
7 development in Kurt Salmon Associates?

8 A. No.

9 Q. Any experience in product design or  
10 development at Revlon?

11 A. No.

12 Q. Any experience in product design or  
13 development affiliated with any consulting that you've  
14 done?

15 MR. GIGGER: Objection as to form.

16 A. I can't remember. I don't want to say no  
17 and then find some obscure thing that I did sometime,  
18 but basically I don't do that.

19 Q. So is it fair to say that your experience in  
20 product design and development is limited to that second  
21 retainer that is exemplified in Visser Exhibit 9?

22 MR. GIGGER: Objection as to form.

23 A. Pretty much.

24 Q. Have you ever sought patent protection for  
25 any reason?

1           A.     No, sir.

2           Q.     Have you ever made any efforts to  
3 commercialize any eyewear retainer that you've made?

4           A.     No, sir.

5           Q.     Would you agree with me that one benefit of  
6 an eyewear retainer is to prevent your glasses from  
7 falling off?

8                   MR. GIGGER:  Objection as to form.

9           A.     Say that again.

10          Q.     Sure.  Would you agree with me that one  
11 benefit of an eyewear retainer is to prevent your  
12 glasses from falling off?

13                   MR. GIGGER:  Same objection.

14          A.     Yes.

15          Q.     And if you're a fisherman that's kind of  
16 extra important, right, because if your glasses fall off  
17 they may go in the water?

18                   MR. GIGGER:  Objection as to form.

19          A.     Yes.

20          Q.     Would you also agree with me that another  
21 benefit of an eyewear retainer is to allow the wearer to  
22 place it around his neck with the glasses hanging down  
23 on his chest when he's not using them?

24                   MR. GIGGER:  Objection as to form.

25          A.     Yes.



1           Q.     And you state in paragraph 13 of your report  
2     that one of the reasons fishermen would tie monofilament  
3     to their glasses would be to allow them to hang the  
4     glasses around their neck in the dark or early morning  
5     and easily locate and wear the glasses to shield their  
6     eyes when the sun got brighter; is that correct?

7           A.     That's one of the uses, yeah.

8           Q.     And can you tell me about some of the other  
9     uses?

10           MR. GIGGER:  Objection as to form.

11           A.     Of the eyewear?

12           Q.     Yes, sir.  You just said that's one of the  
13     uses.  I was just asking you about other uses.

14           A.     Well, in the heat of battle fighting a big  
15     fish or something like that and you're sweaty and all  
16     that, if the glasses slip off your face it prevents you  
17     from losing them.

18           Q.     Is it fair to expect that any eyewear  
19     retainer will spend some time in contact with the  
20     wearer's neck?

21           MR. GIGGER:  Objection as to form.

22           A.     No.

23           Q.     It's not fair to assume that?

24           A.     That any type?

25           MR. GIGGER:  Objection as to form.

1 Q. Yes.

2 A. That any type will -- oh, wait a minute, let  
3 me rephrase that. Yes.

4 MR. GIGGER: Do you want him to  
5 re-answer the question? I'm not sure what the  
6 question is at this point.

7 THE WITNESS: Well, I look at it that,  
8 yes, when you're not wearing the glasses it hangs  
9 around your neck, if that's what you meant.

10 Q. Yes, sir. My question was it's fair to say  
11 that any eyewear retainer will spend some time in  
12 contact with the wearer's neck?

13 A. Yes. I'm sorry. I didn't understand it.

14 Q. Do you agree with me on that statement?

15 A. Yes.

16 Q. And it's also to be expected that when a  
17 retainer is in contact with the wearer's neck, it's  
18 inevitably going to come in contact with sweat, correct?

19 MR. GIGGER: Objection as to form.

20 A. Yes.

21 Q. And possibly suntan lotion or other fluids?

22 A. It could.

23 MR. GIGGER: Objection as to form.

24 Q. That's not a problem for your retainer, is  
25 it, sir?

1 MR. GIGGER: Objection to form.

2 A. No, sir. You can look at Exhibits 9 and 10,  
3 they have been worn and worn and worn and you cannot  
4 tell the difference between the monofilament in that  
5 one, in 9, 10 or the one I'm wearing today.

6 Q. In fact, you state in your report in  
7 paragraph 20 that one of the advantages of your eyewear  
8 retainer was that it did not absorb sweat, suntan lotion  
9 and other liquids to the same extent as neoprene and  
10 other eyewear retainers, correct?

11 A. I would assume that, yes.

12 Q. Well feel free, sir, to look at your report  
13 if you're uncertain. It's in paragraph 20. And the  
14 portion I'm referring to is when you that one of the  
15 advantages of your eyewear retainer was that it did not  
16 absorb sweat, suntan lotions and other liquids to the  
17 same extent as neoprene and other eyewear retainers.

18 A. I would think that's true.

19 Q. Let me ask you this, when you say neoprene  
20 and other eyewear retainers, what other eyewear  
21 retainers are you referring to?

22 A. Well, there is eyewear retainers on the  
23 market today. You can make it out of different  
24 materials. I prefer monofilament because nothing ever  
25 happens to it.

1           Q.     And what are some of those other kinds of  
2 materials that you've seen?

3           A.     Well, any kind of metal eventually can have  
4 a problem in time with saltwater. There is all degrees  
5 of stainless. There is all degrees of metal.

6           Q.     I guess I'm referring to you say your  
7 retainer did not absorb sweat, suntan lotion, other  
8 liquids to the same extent as neoprene and other eyewear  
9 retainers.

10                  My question is when you say other eyewear  
11 retainers there, which ones are you referring to that  
12 have those problems with absorbing?

13           A.     I wasn't referring to anything specific,  
14 just that -- a general statement that you can't beat  
15 monofilament in my opinion.

16           Q.     In your experience would a leather eyewear  
17 retainer have that problem with absorbing?

18                  MR. GIGGER: Objection as to form.

19           A.     I never used a leather eyewear retainer.

20           Q.     And why would it be an advantage to not  
21 absorb sweat, suntan lotion and other liquids?

22                  MR. GIGGER: Objection as to form.

23           A.     Why would it be an advantage?

24           Q.     Let me ask that again. I'm sorry. Why  
25 would it be an advantage for an eyewear retainer not to

1 absorb sweat, suntan lotion and other liquids?

2 MR. GIGGER: Objection as to form.

3 A. I want mine as clean and as basic as it  
4 possibly can be, and monofilament doesn't do that.

5 Q. Would absorbing sweat, suntan lotion or  
6 other liquids affect the functionality of those other  
7 eyewear retainers?

8 A. I don't know. I've only used monofilament.

9 Q. So when you state in your report that yours  
10 does not absorb sweat, suntan lotions and other liquids  
11 to the same extent that neoprene and other eyewear  
12 retainers, you don't have any experience with other  
13 eyewear retainers to support that statement?

14 MR. GIGGER: Objection as to form.

15 A. Not really. It would just be my assumption  
16 knowing, understanding a little bit about metals that  
17 anything made, other than monofilament, if it's made of  
18 metal that there is a possibility and if it's made of  
19 neoprene or rubber or something like that, in time in a  
20 saltwater environment it's going to go. Whether it's an  
21 eyewear retainer or a thing on a boat and all that, I'm  
22 just using my experience of being in saltwater for all  
23 these years and the damage that saltwater can do to  
24 anything.

25 Q. But the only experience relating to eyewear

1 retainers that you've had is with the two that we've  
2 talked about here today, the one that was tied and  
3 drilled and the second one --

4 MR. GIGGER: Objection as to form.

5 A. It's the same --

6 Q. Let me finish. The second one we talked  
7 about was the exhibit in Visser Exhibit 9.

8 MR. GIGGER: Object to form.

9 A. Yeah, it's the same monofilament. Whether  
10 you drill the hole -- and one of the problems is, if you  
11 notice, the temple bar comes down where it used to be  
12 straighter. So you would have to come up and then --  
13 and that would push it down. That's another problem  
14 with these.

15 Q. And so, sir, I guess my question was here  
16 today you testified about the first eyewear retainer  
17 that was made by drilling the sunglasses, correct?

18 A. Yes.

19 Q. And the second eyewear retainer that's  
20 exhibited by Plaintiff's Exhibit 9 from the Visser  
21 deposition?

22 A. Yes.

23 Q. And other than those two retainers, you  
24 don't have any other experience using eyewear retainers?

25 A. No, sir.

1           Q.     Do you have any knowledge as to whether any  
2 retainers coming into contact with sweat, suntan lotion  
3 or other liquids, how that would affect their shape?

4           MR. GIGGER:  Objection as to form.

5           A.     No.

6           Q.     And just so I'm clear, since you developed  
7 the second retainer that's exhibited by Plaintiff's  
8 Exhibit 9 to Visser, you haven't worn any other kind of  
9 retainer since that time?

10          A.     Since I developed the second retainer I have  
11 not worn any other you're asking me?

12          Q.     Yes, sir.  That's my question.

13          A.     No, I haven't worn any other type of  
14 retainer.

15          Q.     Now, Mr. Sosin, you've taught others how to  
16 make that second retainer; have you not, sir?

17          A.     Yes.

18          Q.     And just so we're clear, from this point  
19 forward and throughout the deposition when I say the  
20 second retainer I'm referring to the ones exhibited by  
21 Plaintiff's Exhibit 9 to Visser.

22                 How -- in what circumstances have you taught  
23 others how to make that retainer?

24          A.     Well, as I said earlier, I put it on my  
25 website when I had a website.  I put it in one of my

1 shows. I made a video of it for Costa. I've  
2 demonstrated it at different places or told people how  
3 to do it.

4 Q. When you say you've demonstrated it at  
5 different places, can you tell me what you mean by that?

6 A. Well, for example, I was up at L.L.Bean  
7 signing books and somebody asked me and I told them how  
8 you do this. And, you know, if you're a fisherman it's  
9 easy to understand.

10 Q. So this is in the course of being who you  
11 are, people may ask how you make that retainer?

12 A. I get asked a lot of questions.

13 Q. Including by me, right?

14 A. I haven't thought about that yet.

15 Q. So one of the ways that you've taught people  
16 how to go about making a device is through an  
17 instructional video, correct?

18 A. Yes.

19 Q. And that was made in conjunction with Costa;  
20 is that right?

21 MR. GIGGER: Objection to form.

22 A. No.

23 Q. Strike that. Let me ask you how it was you  
24 came to make that video?

25 A. I made it to go in one of my shows. The



1 best part of my shows was not really catching the fish,  
2 although people liked that, it was the instructional  
3 material. I'm an outdoor educator. My job is to teach  
4 people a lot of things. And I tried to put educational  
5 things in every show and in one of them I use this. I  
6 then took that footage because Costa wanted to see it, I  
7 took it, put it on a DVD and sent it to them.

8 Q. So you made the video in the course of your  
9 saltwater fishing show?

10 A. Yeah, I didn't make it for Costa.

11 Q. And later you sent it to Costa as well?

12 A. Yeah. They wanted to see how you do that  
13 and I sent them the video.

14 Q. Do you have any idea sitting here today  
15 approximately how many people have viewed that video?

16 A. Not a clue.

17 Q. In paragraph 29 of your report you state  
18 that you received numerous inquiries about how to make  
19 the second retainer. I believe you were just telling me  
20 about this, but in what ways do you receive inquiries  
21 about it?

22 A. Well, people ask me, you know, how do you do  
23 that. And I'll bore you with one quick story. I'm  
24 walking around a consumer show and I go by this booth  
25 and a man comes out of the booth and he looks at my

1 glasses and he says, "I know where you got that idea."

2 I said, "Really, where did I get it?"

3 And he said, "You saw Mark Sosin use it."

4 And I said, "Nah, I knew it long before he  
5 did."

6 You know, you don't know. You don't know  
7 what people know -- let me say this. I was on  
8 television for 27 years, sometimes 52 weeks of the year.  
9 In the beginning at least on ESPN and the Nashville  
10 Network I reached a million households a week. These  
11 are always hanging around my neck or on my eyes. Do you  
12 think a few people saw it?

13 Q. So you taught the process of making the  
14 second retainer on your video and to people who have  
15 come up to you from time to time inquiring about it.  
16 Are there any other ways in which you've taught others  
17 how to make that retainer?

18 A. No. I just respond when I'm asked.

19 Q. Are there any specialized skills that  
20 someone has to possess to be able to follow your  
21 instructions for make that retainer?

22 MR. GIGGER: Objection as to form.

23 A. Not really.

24 Q. For example, does one need to possess  
25 detailed knowledge of fishing knots to be able to make

1       that retainer?

2                   MR. GIGGER:  Objection as to form.

3           A.       There are no knots in it.  You stick the end  
4       in a candle.

5           Q.       In fact, you state in your report in  
6       paragraph 21 that you developed it by applying common  
7       knowledge, correct?

8           A.       Yeah, common sense.

9           Q.       Would you call the process by which you make  
10      that retainer simple and straightforward?

11                   MR. GIGGER:  Objection as to form.

12          A.       Could you repeat that for me, please?

13          Q.       Sure.  Is it fair to call the process by  
14      which one makes that retainer simple and  
15      straightforward?

16          A.       Yes.

17          Q.       It's basically just wrapping a piece of  
18      floss around a bar, right?

19                   MR. GIGGER:  Objection as to form.

20          A.       I wouldn't call it a piece of cloth.

21          Q.       I'm sorry.  It's basically just wrapping a  
22      piece of floss around a bar?

23          A.       Piece of floss did you say?

24                   MR. GIGGER:  Objection to form.

25          Q.       Yes, sir.

1           A.     Oh, I'm sorry. I thought you said cloth.

2     Yeah, that's a retainer that holds the line in place.

3           Q.     Is it fair to say that the retainer is a  
4     simple device?

5                     MR. GIGGER: Objection as to form.

6           A.     Mine certainly is. I don't know about  
7     others.

8           Q.     When you say mine, you're referring to the  
9     second retainer?

10          A.     Second retainer.

11          Q.     Going back to that video, do you recall  
12     about what year it was that you made the video in which  
13     you instructed people on how to make the retainer?

14          A.     I don't remember the year. I remember  
15     shooting it, where we shot it and how.

16          Q.     Okay. Can you tell me a little bit about  
17     that?

18          A.     Yes. I live on a canal and I have a dock.  
19     We took two cameras and I sat down at a table, put the  
20     material on the table, rolled the cameras, tied it on,  
21     took it off, did it a second time, did it a third time  
22     so they could get all the cutaways and we produced a  
23     video.

24          Q.     So it only took three takes?

25          A.     It could have been some shots two, some

1 shots three, maybe four. I mean I don't think about  
2 that. I was in the television business for 27 years. I  
3 mean that's just standard operating procedure of these  
4 guys. I know how they shoot, I direct them and I know  
5 the secret is to get the cutaways, what we call the  
6 cutaways.

7 Q. What do you mean? What's a cutaway, I don't  
8 know?

9 A. A cutaway could be, for example, a close-up  
10 shot while the process is going on. If you look at a  
11 good video, they go to cutaways. It may be you're  
12 fighting a fish and they're on the fish and then  
13 somebody shows a shot of you with the rod and you're  
14 back to the fish, that's a cutaway. You cutaway from  
15 the action into something close or different, back. MTV  
16 is great at that.

17 Q. Do you recall sitting there on your dock  
18 making this video about how long the whole process  
19 took --

20 MR. GIGGER: Objection as to form.

21 Q. -- to make the video?

22 A. How long did it take to make the video?

23 Q. Yes.

24 A. To shoot the video?

25 Q. Yes.

1 MR. GIGGER: Objection to form.

2 A. Because it's got to be edited.

3 Q. Let me rephrase my question. Do you recall  
4 approximately how long it took to shoot the video  
5 wherein you teach people how to make the retainer?

6 MR. GIGGER: Objection as to form.

7 A. Well, let me go kind of around with this.  
8 You're dealing with cameramen and you're dealing with  
9 they've got to be in position and you've got to do that  
10 again or turn your hand this way. I don't know how  
11 long, but I think the whole thing was done in an hour or  
12 less.

13 Q. And was that video part of your TV show?

14 A. I think it was part of one show, the how to  
15 part of it.

16 Q. And sitting here today you don't recall when  
17 it was that that aired?

18 A. Not a clue.

19 Q. At some point did you provide Chums with a  
20 copy of that video?

21 A. No.

22 Q. Mr. Sosin, who was the intended audience for  
23 that video?

24 MR. GIGGER: Objection as to form.

25 A. For the video or the segment?

1           Q.     For the video wherein you taught how to make  
2 your eyewear retainer?

3           A.     Well, I never marketed a separate video. I  
4 only made that for Costa because they wanted to see how  
5 to do it. I made -- the actual shooting was made for a  
6 television show and that was broadcast.

7           Q.     Is there anything about the process that you  
8 teach in the video that's difficult to understand?

9                   MR. GIGGER: Objection as to form.

10          A.     I hope not.

11          Q.     Is there anything about the retainer,  
12 itself, that is difficult to understand?

13                   MR. GIGGER: Objection as to form.

14          A.     I don't think so.

15          Q.     Once properly instructed, anyone could do  
16 that, right?

17                   MR. GIGGER: Objection as to form.

18          A.     I would hope so.

19          Q.     You don't need a college degree to  
20 understand the process, do you?

21          A.     No.

22                   MR. GIGGER: Objection as to form.

23          Q.     You don't need previous experience in the  
24 fishing and outdoor industries to understand the  
25 process, do you?

1           A.     No.

2                     MR. GIGGER:  Objection as to form.

3           Q.     You don't need to have extensive personal  
4 experience in the use and development of eyewear  
5 retainers to understand the process, do you?

6                     MR. GIGGER:  Objection as to form.

7           A.     Would you repeat that, please?

8           Q.     Sure.  You don't need to have extensive  
9 personal experience in the use and development of  
10 eyewear retainers to understand the process by which you  
11 make that second retainer, do you?

12          A.     No, sir.

13                     MR. GIGGER:  Objection as to form.

14          Q.     You don't need to be a recognized expert and  
15 authority on fishing and other outdoor topics to  
16 understand that process, do you?

17          A.     No.

18                     MR. GIGGER:  Objection as to form.

19          Q.     Sir, there was a statement in your report I  
20 didn't quite understand.  I would like to ask you about  
21 it here today and see if you can help me understand it.

22                     In paragraph 25 of your report you state  
23 that if I ever found the location of the bait rigging  
24 floss uncomfortable, for example, due to variations in  
25 different styles of glasses, it would be a simple task



1 to move it forward or backward to a location that was  
2 comfortable. Is that what it says in your report?

3 A. Yes.

4 Q. Does that mean that from time to time you  
5 found the retainer to be uncomfortable after you put it  
6 on a pair of glasses?

7 A. No. I never found it uncomfortable. Never  
8 had to move it.

9 Q. Well, you state there it would be a simple  
10 task to move it forward or backward?

11 A. Yes. If -- depending on the person. That's  
12 written for somebody else. But if you look at these  
13 glasses, and I take Exhibit 9 here, and I take the  
14 glasses off my neck and I lay the two side by side like  
15 that (indicating), you can see that there isn't a  
16 quarter of an inch difference between where that's  
17 wrapped. I just find a comfortable spot on it. When I  
18 say comfortable, a place where I can wrap it easily  
19 depending on the shape of the temple bar and wrap it.  
20 But you don't even feel it. Put one of these on, you  
21 won't even feel it especially with all the hair you've  
22 got.

23 Q. I've got too much hair. I guess my question  
24 was you state it would be a simple task to move it  
25 forward for backward.

1 A. Yes.

2 Q. Can you do that once the retainer is on the  
3 glasses or can you slide it up and down the temple bars  
4 or are you talking about taking it off and putting  
5 another one on in a different spot?

6 A. I'm talking about taking it off; putting it  
7 in a different spot.

8 Q. And in your experience after you make the  
9 eyewear retainer, does the monofilament and bait rigging  
10 floss ever slip either one way or another down the  
11 temple of the sunglasses?

12 A. No. But what can eventually happen from  
13 just wear is that the floss will loosen up on the back  
14 end. And when that happens I just take a new piece of  
15 floss and in two minutes it's back.

16 Q. And what happens when it loosens up on the  
17 back end like you said?

18 A. Nothing. I just don't like it.

19 Q. Have you ever had one come off your glasses?

20 A. I've had it --

21 MR. GIGGER: Objection as to form.

22 A. I've had it where eventually it could  
23 unravel, once you break where it's locked in.

24 Q. When you say unravel, you're referring to  
25 the bait rigging floss?

1 A. Yes.

2 Q. Do you have any knowledge as to how  
3 frequently that can occur?

4 MR. GIGGER: Objection as to form.

5 A. Not really. It depends what you do with  
6 them and what happens.

7 Q. And in your experience how many times has  
8 that happened to you where the bait rigging floss came  
9 loose?

10 A. It will do it periodically. It's hard to  
11 say when or how many times. But I also -- when these  
12 really get old and all that, I sometimes personally just  
13 replace it. I mean the whole thing is a five-minute  
14 process.

15 Q. When you say it happens periodically, do you  
16 have any -- what do you mean by periodically?

17 A. Once in awhile this will loosen up or back  
18 off. That doesn't mean this -- the monofilament comes  
19 out. It just starts loosening. And a lot of times I  
20 don't even take the original one off, I just wrap over  
21 it and lock it again and it stays.

22 Q. So is it your testimony that the  
23 monofilament line can be re-used for another retainer?

24 A. Oh, yeah.

25 Q. And is that true even though as part of the

1 process you have to burn the ends?

2 A. Yes. Burn the end or put a knot in it.

3 Q. But the bait rigging floss that you use when  
4 you make the retainer, that can't be used again for a  
5 second retainer, can it?

6 A. No.

7 MR. GIGGER: Object to the form.

8 Q. In fact, as part of the process of making  
9 the retainer you have to trim it; is that correct?

10 MR. GIGGER: Objection as to form.

11 A. Trim what?

12 Q. The bait rigging floss.

13 MR. GIGGER: Objection as to form.

14 A. You trim it where it comes out. That's one  
15 snip with a pair of scissors.

16 Q. For your retainer, the second retainer, can  
17 you have the combination of the bait rigging floss  
18 connected to each end of the monofilament without first  
19 tying the monofilament to the glasses?

20 MR. GIGGER: Objection as to form.

21 A. I'm not sure you understand. The  
22 monofilament is not tied to the glasses. The bait  
23 rigging floss holds the monofilament against the  
24 glasses. That's the retainer.

25 Q. And is it possible to connect the bait

1 rigging floss to the monofilament before anything is  
2 connected to the glasses?

3 MR. GIGGER: Objection as to form.

4 A. That's not the way it's done.

5 Q. Have you ever tried that?

6 A. Why would I? No.

7 Q. Can you connect the bait rigging floss to  
8 each end of the monofilament first such as the  
9 combination of the bait rigging floss and monofilament  
10 can then be connected to sunglasses?

11 MR. GIGGER: Objection as to form.

12 A. I'm not sure I understand that. Are you  
13 asking me do I connect this, the floss to the  
14 monofilament first and then put it against the glasses?

15 Q. Yes, sir. I'm asking you is that possible  
16 to do?

17 A. No, not in this system.

18 Q. Have you ever tried to do that?

19 A. I wouldn't. It wouldn't work in this  
20 system. That's not the way the system was designed.

21 Q. Has any part of that retainer, the second  
22 retainer ever irritated your skin while being worn?

23 A. Not that I can remember.

24 Q. Has anybody ever complained to you about  
25 that being a problem while wearing the second retainer?

1 A. No.

2 Q. So no one has ever mentioned to you any  
3 discomfort of any kind associated with using your second  
4 retainer?

5 A. Not that I can remember.

6 Q. Let's say I'm a fisherman and I get tired of  
7 having your retainer connected to my sunglasses --

8 MR. GIGGER: Objection as to form.

9 Q. -- how would I go about removing the  
10 retainer from the sunglasses?

11 A. You take a pair of scissors and you just  
12 snip this. You don't have to cut the whole thing off,  
13 just snip it and unwind it. Pull that off. This comes  
14 off and you've got sunglasses with no retainer.

15 Q. So to get the monofilament off you have to  
16 cut the bait rigging floss?

17 A. Absolutely. I want it to be permanent. I  
18 don't want it to come off until I take it off.

19 Q. Is it possible to just untie the bait  
20 rigging floss without cutting it?

21 MR. GIGGER: Objection as to form.

22 A. Why would you want to do that? I shouldn't  
23 ask you the question. Anything is possible. You can  
24 slide it off and loosen it up, but unless you can get  
25 the wraps out of there, it's just easier to cut it.

1           If you look at this, there is a little gap  
2   in here and in there where this goes through because the  
3   floss goes around the 300-pound test mono and the mono  
4   holds it off part of the glasses. Stick something in  
5   there and clip it once and unwrap it and it's done.

6           Q.     But you can't just slide it off the glasses  
7   can you, sir?

8           A.     No. I don't want to slide it off the  
9   glasses. I don't want anything that slides off.

10          Q.     In your experience and use of these  
11   retainers, how long do you typically leave the retainer  
12   on the glasses once you put it on?

13          A.     Repeat that for me, please. I'm not sure I  
14   understood it.

15          Q.     Let me ask it this way. In your experience  
16   once you make your retainer --

17          A.     Yes.

18          Q.     -- how long does it last?

19          A.     Well, I haven't worn these glasses in a long  
20   time and it's still there. It lasts a long time. Bait  
21   rigging floss is very tough. There is two grades of it  
22   that I have, one is 35-pound test and the other is  
23   70-pound test. Usually I use the 35 because it's  
24   thinner. And as I say, you can use dental floss. But I  
25   used 35-pound test and that's very strong. It's not

1 going anywhere until you cut it. This was designed to  
2 last. This was designed for hard use in an unfriendly  
3 environment.

4 Q. Can you think, just as an example, offhand  
5 of a retainer that you used like this one for any  
6 specific period of time?

7 A. Say that again.

8 Q. I'm just trying to figure out do you have an  
9 example of one that you used for X amount of years or  
10 anything like that? I'm trying to figure out if you  
11 have an example of how long one of these things has  
12 lasted?

13 MR. GIGGER: Objection as to form.

14 A. I don't know. I would assume that one of  
15 these is at least a year old, if not longer. When I get  
16 a new prescription for my glasses I just leave it on. I  
17 don't even take it off. I just leave it on, push the  
18 glasses aside and get a new one. And I got this  
19 prescription, oh, within the last six weeks or eight  
20 weeks.

21 Q. Have you ever reused the same bait rigging  
22 floss on a second retainer?

23 A. You can't.

24 Q. Have you ever reused the same monofilament  
25 on the second retainer?



1 A. Yes.

2 Q. Have you ever had a retainer break off while  
3 you were using it?

4 MR. GIGGER: Objection as to form.

5 A. What do you mean break off? Where the  
6 glasses hang down or fall off?

7 Q. By break off I mean either side of the  
8 sunglasses, the monofilament and the bait rigging floss  
9 come completely disconnected from the sunglasses?

10 A. No.

11 Q. But you have had some come loose from time  
12 to time?

13 A. Yeah. Eventually they wear because they get  
14 rough treatment. And eventually the -- nothing is going  
15 to happen to 300-pound mono. You're not going to break  
16 it, you're not going to bend it, you're not going to do  
17 anything to it. But the floss is only 35-pound test and  
18 that will fray eventually and it could unravel a little  
19 bit and you just put new floss on.

20 Q. And about the first retainer that we talked  
21 about today where you drilled the holes in the  
22 sunglasses --

23 A. Right.

24 Q. -- if you got to where you did not want that  
25 retainer on your sunglasses anymore, how would you

1 remove it?

2 A. Simple. You just push it back through the  
3 hole. You take the back here, the knot is in the hole  
4 here and it goes through. So you can either push the  
5 knot out or push it this way. The knot comes out, you  
6 cut the knot off and just pull it out.

7 Q. So cutting the line would be required to  
8 remove that retainer, sir?

9 A. Or untie the knot.

10 Q. In your experience would it be possible to  
11 untie the knot?

12 MR. GIGGER: Objection as to form.

13 A. I never tried.

14 Q. Exhibit D of your report --

15 A. Exhibit D.

16 Q. -- if I can direct your attention to that.

17 A. I'm on E. That's not my head. I still have  
18 hair.

19 Q. Is the retainer depicted in Exhibit D one  
20 that you made?

21 A. I would think so.

22 Q. Is that -- do you know for sure, sir, if  
23 that's one you made or --

24 A. I would think it's one of these two pairs of  
25 glasses, Exhibit 9 and 10.

1 MR. GIGGER: Visser 9 and 10.

2 Q. Do you recall when it was that you made the  
3 retainer depicted in Exhibit D of your report?

4 A. No, sir. Those are glasses that I actually  
5 wore with my prescription in them and when I got them, I  
6 put the retainer on. It's easy. I have a whole coil of  
7 300-pound test and I have plenty of bait rigging floss.  
8 So I don't even take the old one off, I just cut a new  
9 piece. I measure it. I cut a piece off. I measure how  
10 long this is. I cut it, stick it in a flame, lay it on  
11 there, wrap this thing, zip, zip, zip, done.

12 Q. And so did you provide Chums with the  
13 retainer depicted in Exhibit D?

14 A. Yes.

15 Q. Do you recall when it was that you provided  
16 that retainer to Chums?

17 A. I would think, if I had to guess, May or  
18 June.

19 Q. So that would have been before you were  
20 engaged as an expert in this case?

21 A. Yes.

22 Q. Does that trigger anything that would help  
23 you recall when the first time you spoke with anyone  
24 affiliated with Chums?

25 MR. GIGGER: Objection as to form.

1           A.     The only one I spoke with was Josh Gigger,  
2     an attorney. He never discussed the case. He asked me  
3     about --

4           Q.     I don't -- let me stop you there. I don't  
5     want to know about your conversations with him.

6           A.     Okay.

7           Q.     But let me -- let me say this. What I'm  
8     trying to figure out is at some point, you said in May  
9     or June you provided Chums with this retainer. And I'm  
10    just asking earlier today I tried to figure out kind of  
11    the first time you were contacted or you spoke with  
12    someone affiliated with Chums about this lawsuit.

13          A.     And what I'm trying to tell you is I didn't  
14    know it was Chums. I didn't know who Chums were. I  
15    don't know who anybody is in there. I just don't know.  
16    Asked me about my system and if I had a sample of it and  
17    I found these two pair and I sent it to them.

18          Q.     Right. And I'm just trying to see if, to  
19    the best you can recall, when that occurred, and if that  
20    helps you remember kind of when this communication  
21    began?

22          A.     I think it was probably May or June before  
23    -- before they said I would be an expert witness.

24          Q.     When did you first become aware -- when did  
25    you first become aware of a company by the name of

1 Cablz?

2 MR. GIGGER: Objection as to form.

3 A. I don't remember the company name, but I  
4 remember seeing their product at ICAST the year they  
5 unveiled it.

6 Q. Would that have been 2009, sir?

7 A. Yeah, whatever the year they came to ICAST.

8 Q. Can you tell me about what happened?

9 MR. GIGGER: Objection as to form.

10 A. I don't remember much. I remember walking  
11 down an aisle and seeing this and my first impression  
12 was, gee, they copied me. What took them so long. And  
13 I talked to them a little bit and I don't remember what  
14 the conversation was and I walked on.

15 Q. So sitting here today you don't recall any  
16 specifics of that conversation?

17 A. No, I do not other than my thoughts, which I  
18 did not express, I don't believe as to -- they copied  
19 what I've been doing for 50 years, what took them so  
20 long.

21 Q. Do you recall whether or not during the  
22 course of that conversation you showed your retainer to  
23 the person you were talking to?

24 MR. GIGGER: Objection as to form.

25 A. I do not, but they were certainly around my

1 neck.

2 Q. Do you recall whether they were around your  
3 neck or whether you were actually wearing the sunglasses  
4 at the time of that conversation?

5 MR. GIGGER: Objection as to form.

6 A. I don't wear sunglasses inside so they were  
7 around my neck.

8 Q. Do you recall what clothing you were wearing  
9 at the time of this conversation?

10 MR. GIGGER: Objection as to form.

11 A. Not a clue.

12 Q. Do you recall who it is that you spoke with  
13 during this conversation?

14 MR. GIGGER: Objection as to form.

15 A. No. Whoever was in the booth at the time.

16 Q. Do you recall whether it was one person or  
17 more than one person that you spoke with?

18 MR. GIGGER: Objection as to form.

19 A. I don't remember.

20 Q. Do you recall how long the conversation  
21 lasted?

22 MR. GIGGER: Objection as to form.

23 A. No.

24 Q. Following that conversation, at any time  
25 since, have you spoken with anyone affiliated with

1 Cablz?

2 A. No. Not to my knowledge.

3 Q. Do you recall whether you were wearing a hat  
4 or any head gear at the time of the conversation?

5 MR. GIGGER: Object to form.

6 A. I don't wear hats inside. My wife doesn't  
7 allow it.

8 Q. So it was actually you recall or just based  
9 on the fact that you generally don't --

10 A. No. I never walked around an ICAST show in  
11 53 or 54 years with a hat on my head.

12 MR. GIGGER: Give me a chance to object.

13 THE WITNESS: What?

14 MR. GIGGER: Give me a chance to object  
15 before you answer it.

16 THE WITNESS: I'm sorry.

17 MR. GIGGER: That's okay. I had an  
18 objection to the last one, but go ahead. Sorry.

19 THE WITNESS: Do you want me to say it  
20 again?

21 Q. Please, sir.

22 A. I have never walked an ICAST show in the 53  
23 or 54 years I've been going with a hat on my head.

24 Q. Have you told me here today everything about  
25 that conversation that you can recall?

1 A. With Cablz?

2 Q. Yes, sir. The conversation we've been  
3 talking about at the ICAST show in 2009.

4 A. Everything I can recall. I remember my own  
5 thoughts but I don't remember what we talked about.

6 Q. Sitting here today is it your belief that  
7 someone affiliated with Cablz copied your eyewear  
8 retainer to develop Cablz' products?

9 MR. GIGGER: Objection as to form.

10 A. I never said that. The idea of an eyewear  
11 retainer maybe, but I never said they copied what I did.

12 Q. Well, sir, just to be clear, I'm not asking  
13 anything that you've said. I'm just asking sitting here  
14 today is it your belief that someone affiliated with  
15 Cablz copied your eyewear retainer to develop Cablz'  
16 products?

17 MR. GIGGER: Objection as to form.

18 A. I have no idea.

19 Q. So it's not your belief that someone  
20 affiliated with Cablz copied your eyewear retainer to  
21 develop Cablz' products?

22 MR. GIGGER: Objection as to form.

23 A. That's not what I said. What I said was I  
24 have no idea whether they did or they didn't.

25 MR. HILL: This is a decent stopping



1 place if you want to break for lunch.

2 MR. GIGGER: Okay. Sounds good. How  
3 much time do you think you have left?

4 MR. HILL: Less than two hours.

5 MR. GIGGER: All right.

6 (Luncheon recess is taken.)

7 BY MR. HILL:

8 Q. Mr. Sosin, we took a break for lunch and  
9 we're now back. You do understand, sir, that you're  
10 still testifying under oath?

11 A. I do.

12 Q. You brought with you here today a -- appears  
13 to be a DVD, three videotapes and a book?

14 A. Yes.

15 Q. Is that a fair summary of what you brought  
16 with you here today?

17 A. That's all we brought.

18 Q. And so for the record I'm marking the DVD as  
19 Plaintiff's Exhibit 2 which is Mark Sosin's Favorite  
20 Fishing Knots Fresh and Saltwater.

21 (Exhibit 2 is marked for  
22 identification.)

23 A. Right.

24 Q. And on the bottom right of the DVD it looks  
25 like there is a Mark Sosin Saltwater Journal Logo.

1 A. Yes.

2 Q. Is that correct, sir?

3 A. Yes, that's correct.

4 Q. Can you tell me why it is you brought this  
5 particular DVD with you here today?

6 A. Well, one of the reasons is I'm wearing the  
7 glasses on the front cover of that.

8 Q. Okay. And are there any other reasons?

9 A. Not really.

10 Q. Okay. And also for the record the three  
11 videotapes that you brought with you here today I marked  
12 as Plaintiff's Exhibits 3A, 3B and 3C. And can you just  
13 tell me, sir, what these three videotapes are?

14 (Exhibit 3 is marked for  
15 identification.)

16 A. Well, for one thing they show pictures of me  
17 with the glasses on.

18 Q. Okay. Well, let's start with just what the  
19 videotapes are, sir.

20 A. We took segments from my show, Mark Sosin's  
21 Saltwater Journal and people were always asking about  
22 it. And we took segments that we thought were  
23 particularly good and we put them in these three videos  
24 and offered them for sale either individually or as all  
25 three and we sold them on my website and we did pretty

1 well with them. I may have a couple of them left, but I  
2 don't have much.

3 Q. And so is it fair to say those are maybe  
4 some of the highlights of your Saltwater Journal Show  
5 over the years?

6 A. Yes. That would be a fair thing.

7 Q. And do you recall what date those videotapes  
8 were first available for purchase on your website?

9 A. My recollection is 1999.

10 Q. Okay. And now I'll ask you, sir, is there  
11 any particular reason why you brought those videotapes  
12 with you here today?

13 A. Well, yes. If you look, you can see the  
14 glasses. You can see the retainer on this picture here.  
15 Just to show that I have been using that and wearing  
16 that for a long time.

17 Q. When you say this picture here, can you just  
18 state for the record kind of which one you're --

19 A. Yes. This is Volume 1 and Volume 2 shows  
20 the glasses and Volume 3 -- 1 and 3 you can see the  
21 retainer on it.

22 Q. And other than the fact that they depict the  
23 retainer, is there any other reason that you brought  
24 those videotapes with you here today?

25 MR. GIGGER: Do you want to look at your

1 report? Or is that helpful to have him look at his  
2 report what's referred to?

3 Q. Yes, sir. Sure. At any time if you need to  
4 look at your report feel free to do so. I'm just asking  
5 if there is any other reason than depicting the  
6 retainer, that you brought those videotapes with you  
7 here today?

8 A. Just pictures of me on there in the videos  
9 wearing the glasses, fishing.

10 Q. Okay.

11 A. Doing some how to's.

12 Q. And finally, sir, I marked as Plaintiff's  
13 Exhibit 4 the book that you brought here with you today  
14 entitled The Complete Book of Light Tackle Fishing.  
15 I'll let you take a look at that.

16 Can you tell me generally what that book is  
17 about?

18 (Exhibit 4 is marked for  
19 identification.)

20 A. It offers -- I'm basically a how to writer.  
21 That's what I do primarily. Once in awhile a where to,  
22 but it's known in the trade as how to. How do you do  
23 this, how do you do that. Because I'm theoretically a  
24 technical expert on a lot of this stuff. And that's  
25 what I write today for Coastal Angler and Texas Outdoor

1 Journal. And I believe somewhere in this book are the  
2 pictures -- I guess we have them in my report, but the  
3 pictures of the people wearing glasses with retainers on  
4 them. And that's why I brought the book.

5 Q. Okay. Just to make sure I have your  
6 testimony correct, the reason you brought that book with  
7 you here today is that it depicts some retainers being  
8 used --

9 A. Right.

10 Q. -- in it. Is there any other reason that  
11 you brought that book with you here today?

12 A. No. Not unless you wanted to know how to  
13 light tackle fish.

14 Q. You said when you were describing that book  
15 that you were a theoretical expert on that stuff --

16 A. Well, considered an expert.

17 MR. GIGGER: Let him ask his question  
18 before answering.

19 THE WITNESS: I'm sorry.

20 MR. GIGGER: That's okay.

21 Q. I was just wondering what you were referring  
22 to there when you made that comment.

23 MR. GIGGER: Objection as to form.

24 A. You asked me why I wrote the book and what  
25 I'm telling you is that I'm extremely knowledgeable on

1 light tackle fishing and it just seemed like a logical  
2 book to write.

3 Q. When you say light tackle fishing, can you  
4 generally tell me what you mean by that terminology?

5 A. Light tackle is relative. I don't believe  
6 in stunt fishing where you use two-pound test line to  
7 catch a hundred pound fish, you know, that's stunt. But  
8 where -- in moving yourself forward in the fishing game  
9 instead of using 20-pound test you start using 17 or 14  
10 or 15 and you go lighter than what you're doing and  
11 that's basically what I call light tackle fishing.

12 Q. Thank you. What is ICAST?

13 A. ICAST used to be called AFTMA, American  
14 Federation of Tackle Manufacturers Association and then  
15 they -- I forget what ICAST stands for, but it is the  
16 annual fishing tackle show in the United States. It is  
17 only for manufacturers, dealers and the press. The  
18 public cannot get in.

19 Q. To your knowledge, how does it rank amongst  
20 fishing trade shows in size?

21 MR. GIGGER: Objection as to form.

22 A. You can't compare them. And the reason is  
23 that this show -- it gets -- I know it gets maybe seven  
24 to 9,000 people there, but it is the only major trade  
25 show in the country so you can't compare it to consumer

1 shows.

2 Q. How about internationally, is there any  
3 trade show internationally that would be comparable to  
4 ICAST?

5 A. Yes.

6 Q. Can you tell me what that is?

7 A. I know there is one in Europe, maybe  
8 someplace else, but I don't know -- I've never been to  
9 that one so I don't know how well attended it is.

10 Q. And so getting back to ICAST, do you have  
11 any knowledge about the average attendance at ICAST?

12 MR. GIGGER: Objection as to form.

13 A. Not really. I mean I assume it could be six  
14 to 9,000 people and maybe more, maybe less -- they  
15 publish it but I don't remember.

16 Q. In the fishing industry how important of a  
17 trade show is it?

18 A. I have --

19 MR. GIGGER: Objection as to form.

20 A. I have always said that through these  
21 portals the entire industry walks in three days. That's  
22 how important it is. Almost everybody is there unless  
23 they have a major reason for not being there.

24 Q. And you, yourself, have personally attended  
25 ICAST shows, trade shows, correct?

1 A. Yes.

2 Q. On how many occasions?

3 A. I think I am up to 53 consecutive years,  
4 maybe 54.

5 Q. And why is it that you have such an  
6 impressive attendance record at ICAST?

7 A. Because I turned down other opportunities to  
8 be there because it's the most important show there is.  
9 That's where new products are unveiled, that's where the  
10 industry passes and you get to talk to a lot of people.  
11 You want to be there.

12 Q. Is there any other trade show or industry  
13 event that you have a similar attendance record at?

14 A. Not even close.

15 Q. So in the course of attending these shows  
16 for a number of years, how have the shows changed over  
17 the years?

18 MR. GIGGER: Objection as to form.

19 A. It started in Chicago in a hotel. And those  
20 hotels don't even stand anymore. And they grew and grew  
21 and grew. And when it was in Chicago it brought  
22 primarily people from the midwest, a few of us from  
23 other parts of the world, country. And then as they  
24 grew and they moved around and all that, it became more  
25 national. Now, it's really an international show.



1 Q. Has its prestige grown over the years?

2 A. Absolutely.

3 MR. GIGGER: Objection as to form.

4 A. Absolutely.

5 Q. How about its prominence in the fishing  
6 industry?

7 MR. GIGGER: Objection as to form.

8 A. It certainly has. It's the place to be  
9 every July.

10 Q. Now, is ICAST the trade show itself, or is  
11 that an organization; can you help me understand that?

12 A. ICAST is the show. It is put on by what is  
13 known as ASA or the American Sportfishing Association.

14 Q. And what is your involvement then over your  
15 career with the American Sportfishing Association?

16 A. I haven't had any real involvement with  
17 them. I mean I know the players.

18 Q. How about ICAST, itself, are there any --  
19 have you ever held any positions relating to ICAST?

20 A. No.

21 Q. So is it -- and when you have attended the  
22 ICAST shows, what do you do at them?

23 A. What do I do?

24 Q. Yes.

25 A. Well, I do two things. One, I try and get

1 around, and it gets bigger and bigger every year. I try  
2 and get around and see every booth, take a look at what  
3 they're offering, new products so I'm aware of them.  
4 And also to see people. You know, like any business,  
5 you have to have the contacts. And the fact that even  
6 if you see somebody once a year, you still maintain that  
7 contact and if you need them, they're there for you.  
8 You've got to remember, I'm an outdoor journalist. I  
9 need to call some of these people from time to time for  
10 information and if you don't know them, it's hard to get  
11 it. If you're an old friend, it's a lot easier.

12 Q. And so is it a fair assumption that a lot of  
13 people affiliated with the ICAST show know you  
14 personally?

15 A. Yes.

16 Q. And you're constantly --

17 (Cell phone rings.)

18 MR. GIGGER: Should we go off the  
19 record?

20 (Discussion is held off the record.)

21 BY MR. HILL:

22 Q. Back on the record. We took a brief break  
23 there but, sir, you understand you're under oath?

24 A. Yes.

25 Q. Do you understand you're under oath. Thank

1     you. We were talking about what you do generally when  
2     you attend ICAST shows.

3             A.     Yes.

4             Q.     And I believe you told me one thing you did  
5     was go around and talk to people?

6             A.     Yes.

7             Q.     Is there anything else that you  
8     traditionally do when you go to ICAST shows?

9             A.     Not really. Once or twice or a few times  
10    they have done stuff before television cameras, put on  
11    some kind of thing and I've been part of that a couple  
12    of times but, you know, nothing major.

13            Q.     And when you're going around talking to  
14    people I guess you're talking to exhibitors?

15            A.     I talk to two types of people, actually  
16    three, one is the exhibitors -- four. One is the  
17    exhibitors, the buyers, the tackle reps that sell for  
18    the exhibitors and other members of the press.

19            Q.     You say other members of the press, are you  
20    considering yourself as an attendee of ICAST a member of  
21    the press?

22            A.     I have a working press credential.

23            Q.     How long have you maintained that press  
24    credential?

25            A.     Probably 52 years. The first year I went

1 with somebody else and he got the credentials, and after  
2 that I went on my own.

3 Q. And as you're -- when you're at ICAST and  
4 going around talking to people, how often is it that  
5 you're wearing the retainer that's depicted in  
6 Plaintiff's Exhibit 9, Visser?

7 A. From the time I get up in the morning to the  
8 time I go back to my hotel room at night.

9 Q. So is it fair to say that a good number of  
10 people affiliated with ICAST are also familiar with your  
11 retainer?

12 A. Well, it's certainly hanging around my neck.

13 Q. So would you agree with that statement, sir?

14 A. Yes.

15 MR. GIGGER: Objection as to form.

16 THE WITNESS: Yeah.

17 Q. Do you recall when you began wearing the  
18 retainer at the ICAST shows approximately?

19 A. Fifty-three years ago.

20 Q. And you've worn it at all of the ICAST shows  
21 since then?

22 A. I wear it every day, all day.

23 Q. Sir, tell me if you can, what you know about  
24 the New Product Showcase at ICAST?

25 A. Well, they -- it's really a recent thing in

1 the last, I don't know how many years. But you know,  
2 compared to all the years I've been there it's a recent  
3 thing and I go to it every year.

4 Q. Do you recall the first year that you went  
5 to it?

6 A. No, I don't.

7 Q. Did you go to it in 2009?

8 A. Oh, sure, every year.

9 Q. You attended the ICAST show in 2009,  
10 correct, sir?

11 A. Yes. And every year that they've had this  
12 I've gone. It is only open, as I'm sure you know, to  
13 buyers and members of the press.

14 Q. And have you -- what capacity have you  
15 participated in the New Product Showcase?

16 A. Just another freeloader getting some hors  
17 d'oeuvres.

18 Q. Well, as I understand it, certain members of  
19 the press are allowed to vote on certain products as  
20 part of the New Product Showcase; is that correct?

21 A. It's my understanding that all members of  
22 the press are given a ballot if you want one.

23 Q. So you have received those ballots during  
24 ICAST shows, correct, sir?

25 A. I've seen the ballot, yes.

1 Q. Did you receive one in 2009?

2 A. I can't remember. Usually I don't take them  
3 because I'm not interested in voting.

4 Q. And how many times, if you can recall, have  
5 you voted as part of the New Product Showcase?

6 A. I can't recall. Some years I have; some  
7 years I haven't.

8 Q. Do you recall whether you voted in 2009?

9 A. No. I can't recall.

10 Q. Okay. Do you recall voting in it since 2009  
11 in any show?

12 A. Yes.

13 Q. When -- when would that have been?

14 A. I don't remember.

15 Q. So sitting here today you don't recall  
16 whether you voted in 2009 or not?

17 A. No. I know I didn't vote this year.

18 Q. Do you have any gauge on how often or the  
19 percentage of years that you voted?

20 MR. GIGGER: Objection as to form.

21 A. No.

22 Q. Can you describe generally for me how the  
23 New Product Showcase works?

24 MR. GIGGER: Objection as to form.

25 A. Yes.

1 Q. Can you tell me a little bit, just how the  
2 showcase is put on by ICAST?

3 A. I believe it runs -- ICAST these days starts  
4 on a Wednesday, Wednesday morning and goes to Friday  
5 afternoon. The New Product Showcase is Tuesday evening  
6 and I believe it starts at around 5:30 and goes to seven  
7 o'clock, something like that. And members of the press,  
8 working press and buyers are allowed in there. They  
9 have security to keep everybody else out and they have  
10 all the products on display and people walk around,  
11 members of the press vote, and they offer some drinks  
12 and hors d'oeuvres and that's basically it.

13 Q. You said members of the press get a vote?

14 A. As far as I know, yes.

15 Q. Are there any other attendees who are able  
16 to vote?

17 A. I don't know if they let buyers vote or not.  
18 I'm not a buyer.

19 Q. And the process you just described, is that  
20 how it was done in 2009?

21 MR. GIGGER: Objection as to form.

22 A. I -- I can't recall. I mean to me, I go to  
23 the show every year. Since they've had the New Product  
24 Showcase, I've gone to it. What they did in 2009, '10  
25 or '11 I have no idea.

1           Q.     And so although you may not have voted every  
2 year, you have attended the New Product Showcase every  
3 year; is that correct?

4           A.     That is correct and looked at new products.

5           Q.     And you mentioned that they have security to  
6 keep folks other than press and one other group out.  
7 What was the other group?

8           A.     Buyers.

9           Q.     Why is it that they do that, sir, do you  
10 know?

11          A.     I have no idea but those are the rules ASA  
12 set for it and they enforce them.

13                   It's scary when you see a full briefcase  
14 like that, isn't it?

15                   MR. HILL:   What exhibit are we on, five?

16                   THE REPORTER:   Yes.

17          Q.     Mr. Sosin, I'm marking as Plaintiff's  
18 Exhibit 5, four pages of a document produced in response  
19 to a subpoena in this case by the ASA, it's Bates  
20 labeled ASA 6 through 9. I would like for you, if you  
21 can, to take a look at that document and tell me if you  
22 recognize it.

23                   (Exhibit 5 is marked for  
24 identification.)

25                   MR. GIGGER:   If you need to read that,



1 Mark. Go ahead.

2 MR. HILL: Yes. Please take the time,  
3 all the time you need to review it.

4 A. Well, what do you want me to do, read this?

5 Okay.

6 Q. Do you recognize that document?

7 A. Sir?

8 Q. Do you recognize that document?

9 A. No.

10 Q. I'll represent to you that it was produced  
11 by ASA in response to a subpoena in this litigation.  
12 And as I look at it it appears to be a document  
13 describing the New Product Showcase in 2009. Would you  
14 agree with me there?

15 MR. GIGGER: Objection as to form.

16 A. It --

17 MR. GIGGER: He said he didn't recognize  
18 it.

19 A. If you tell me it does, it has rules on it.  
20 I wouldn't get this. I don't have a new product.

21 Q. Okay. Well, would you agree with me --  
22 strike that. Let me ask you do you see where it says on  
23 the first paragraph on ASA00006, "There's more than one  
24 way to catch a fish, and the New Product Showcase  
25 reflects this creative spirit."

1 MR. GIGGER: Where are you reading?

2 THE WITNESS: Top paragraph.

3 MR. HILL: Top paragraph, page ASA00006.

4 A. Right. Okay.

5 Q. Would you agree with me that the New Product  
6 Showcase put on by ICAST in 2009 reflected a creative  
7 spirit?

8 MR. GIGGER: Objection as to form.

9 A. Creative spirit for whom?

10 Q. I'm just -- sir, this ASA document states  
11 that the New Product Showcase reflects a creative  
12 spirit. I'm just asking if you agree with that  
13 statement?

14 A. Oh, I'm sorry. Sure.

15 MR. GIGGER: Just to be clear, that's --  
16 you're agreeing that's what the document says?

17 THE WITNESS: That's the first sentence  
18 in their publication.

19 Q. Yes, sir. I'm just asking if you agree with  
20 their statement in their publication?

21 MR. GIGGER: Objection as to form.

22 A. Yeah, their words.

23 Q. Yes, sir. I understand that they're their  
24 words. I'm just asking if you agree with their  
25 statement?

1 MR. GIGGER: Objection as to form.

2 A. I'm not sure.

3 Q. And why is that, sir?

4 MR. GIGGER: Objection as to form.

5 A. I'm not sure what it means. I'm a writer.

6 Q. Okay. Let me just ask you, apart from this  
7 document, would you agree with me that ICAST'S New  
8 Product Showcase reflects a creative spirit?

9 MR. GIGGER: Objection as to form.

10 A. Well, it's the same words. It reflects new  
11 products. Because the rules say that I just read that  
12 you handed me, the rules say that the product has to be  
13 unveiled that year, cannot be marketed before then.

14 Q. Also in that same paragraph, sir, if you'll  
15 read a little bit further it states, "The New Product  
16 Showcase, sponsored by ESPN Outdoors/Bass is ICAST's  
17 flagship feature." Do you see that, sir?

18 A. Yes.

19 Q. Would you agree with me that in 2009 the New  
20 Product Showcase was ICAST's flagship feature?

21 A. No.

22 MR. GIGGER: Object to the form.

23 Q. So you disagree with the statement in this  
24 document?

25 A. I agree with what ASA says.

1 Q. You do agree or you disagree?

2 MR. GIGGER: Objection as to form.

3 A. I disagree.

4 Q. Why is that, sir?

5 A. Because the feature -- the main reason for  
6 ICAST is not the New Product Showcase. I would not  
7 consider that the main feature. They're trying to  
8 promote it. Mike Nussman or whoever wrote this thing is  
9 trying to promote the New Product Showcase and that's  
10 the way I read this. But if you want to know what the  
11 real reason for ICAST is, the main feature, it's not  
12 this, it's the exhibits, the products that they show in  
13 all the booths, the people who are there, writers,  
14 tournament fishermen, tackle reps, people you need to  
15 know, that's what the highlight of that is. If you told  
16 me they only had the new products section, I wouldn't  
17 even go.

18 Q. Do you see down a little bit further, sir,  
19 there is a heading entitled, Vie for -- excuse me, "Vie  
20 for the Prestigious 'Best of Show' Awards"?

21 A. Oh, yeah. Vie for the Prestigious "Best of  
22 Show" Awards, yes.

23 Q. Would you agree with me that in the fishing  
24 industry a Best of Show at ICAST is a prestigious award?

25 MR. GIGGER: Objection as to form.

1 A. Not necessarily.

2 Q. And why is that, sir?

3 A. Because they award it to weird things. Do  
4 you know what won it this year? I'll tell you what won  
5 it this year, a kayak. Now, you're going to tell me  
6 that a kayak is a new product, that it is innovative,  
7 that it is something that came out of somebody's mind,  
8 or have kayaks been around for as long as you and I can  
9 remember?

10 Q. Let me mark as Plaintiff's Exhibit 6 another  
11 document that was produced in the course of this  
12 litigation in response to a subpoena, the ASA. And I  
13 would like for you, sir, to take a look at that document  
14 and see if you recognize it.

15 (Exhibit 6 is marked for identification.)

16 A. Do you want me to answer?

17 Q. Yes, sir. As soon as you're comfortable  
18 after reviewing it.

19 A. I'm comfortable just looking at it. The  
20 answer is I don't remember what this form looked like in  
21 2009. How can I remember what the form looked like?

22 Q. So you don't recall receiving this form in  
23 2009?

24 A. No, I didn't say that.

25 Q. I'm sorry. Can you --

1           A.     I said I don't recognize this form, number  
2 one. Whether or not I received it, I can't remember.

3           Q.     But you have received voting ballots  
4 before --

5           A.     Yes.

6           Q.     -- for the New Products Showcase in ICAST?

7           A.     Yes. I'm not sure they're the same though.

8           Q.     Do you have any reason to dispute the fact  
9 this is the voting ballot for 2009?

10          A.     No.

11          Q.     Do you see there, sir, on the right side  
12 there is a, lower half there is a section entitled New  
13 Product Showcase Voting Rules?

14          A.     Yes.

15          Q.     And rule number four states, "Please base  
16 your decision on each product's level of innovation,  
17 execution, workmanship and practicality." Do you see  
18 that, sir?

19          A.     Yep.

20          Q.     Do you have any reason to dispute that that  
21 was one of the New Product Showcase Voting Rules in  
22 place in 2009 at ICAST?

23          A.     No.

24          Q.     So you would agree with me, wouldn't you,  
25 that innovation was a factor by which new products were

1 to be evaluated for ICAST's 2009 New Product Showcase  
2 Best of Show Award?

3 MR. GIGGER: Objection, as to form.

4 A. A qualified yes.

5 Q. And how is that yes qualified, sir?

6 A. Innovation in whose mind? How much do you  
7 know about the sport, how much do you know about  
8 different things? If you don't understand it and it  
9 looks new to you -- if I were a kayak user, I'm not sure  
10 I would judge this year's Best of Show as the greatest  
11 kayak ever made or an innovative product. It floats.

12 Q. But you agree with me, sir, that the ASA at  
13 least set forth in their voting ballot one of the rules  
14 as basing the voting decision on innovation?

15 MR. GIGGER: Objection as to form.

16 A. Yes, I did. In 2009.

17 Q. Yes, sir. In fact, in 2009 it was the first  
18 consideration listed in Rule 4; was it not, sir?

19 MR. GIGGER: Objection as to form.

20 A. Yes.

21 Q. To your knowledge, how are these voting  
22 ballots handled by ICAST at the New Product Showcase?

23 MR. GIGGER: Objection as to form.

24 A. I have no knowledge of how they're handled.

25 Q. Well, do you know whether the votes are

1 posted after the show is over, they make them public?

2 A. I know they make them public. I know that  
3 when you leave the room, they collect the ballots. What  
4 they do with them after that, I have no idea.

5 Q. They make the ballots public?

6 MR. GIGGER: Objection to the form.

7 A. No, not to my knowledge. The results.

8 Q. In 2009 how many ICAST attendees were  
9 eligible to vote in the New Product Showcase?

10 MR. GIGGER: Objection as to form.

11 A. I have no idea.

12 Q. Have you done anything in preparing your  
13 expert report in this case to determine how many  
14 attendees of ICAST in 2009 were qualified to vote in the  
15 New Product Showcase?

16 MR. GIGGER: Objection as to form.

17 A. No, but I would suggest to you that you  
18 contact Mike Nussman and he can tell you.

19 Q. But you didn't contact Mike Nussman to find  
20 out, did you, sir?

21 A. No.

22 Q. Do you know in 2009 how many ICAST attendees  
23 actually cast votes in the Best of Show awards?

24 A. No, sir.

25 Q. Did you take any measures in preparing your



1 report for this case to determine how many ICAST  
2 attendees were judges who actually cast votes for the  
3 Best of Show awards?

4 A. No, sir.

5 Q. Do you know in 2009 how many exhibitors  
6 entered products into the New Product Showcase?

7 A. No, sir.

8 Q. Have you taken any measures to determine how  
9 many exhibitors entered products in the 2009 New Product  
10 Showcase?

11 A. No, sir.

12 Q. Do you know how many products were entered  
13 in the 2009 showcase?

14 A. No, sir.

15 Q. Have you taken any measures to determine how  
16 many products were entered in the 2009 ICAST --

17 A. No, sir.

18 Q. -- Showcase? And do you know how many  
19 products were entered in the apparel category in the  
20 2009 New Product Showcase?

21 A. No, sir.

22 Q. Have you taken any measures to determine how  
23 many products were entered in the apparel category?

24 A. No, sir.

25 Q. Do you know whether Cablz won an award at

1 ICAST in 2009?

2 A. I was told that they were awarded Best of  
3 Show.

4 Q. And when did you first learn that Cablz had  
5 won that award in 2009?

6 A. Recently.

7 Q. You didn't learn it there at the show that  
8 year?

9 A. I don't remember.

10 Q. Do you recall your reaction when you learned  
11 that Cablz had won that award?

12 A. Surprise to me.

13 Q. And why were you surprised, sir?

14 A. I was surprised because I didn't think it  
15 was innovative. I didn't think that by far it was the  
16 Best of Show. There were other tackle items in there  
17 that showed a lot more innovation. But people are  
18 judging it and the people who are judging don't have an  
19 overall view of that industry or fishing in general  
20 around the world.

21 Q. Do you believe that you're qualified to  
22 determine whether a product is innovative?

23 A. Yes.

24 Q. Now, as I understand it, you are offering  
25 some opinions in this case about the ICAST award that

1 Cablz won in 2009, correct?

2 A. Yes.

3 Q. For example, in paragraph 35 of your report,  
4 I'll let you get there.

5 A. One page off. I'm there.

6 MR. GIGGER: Go ahead and read it if you  
7 need to.

8 Q. Yes, sir. Take your time. Let me know when  
9 you've taken a look at paragraph 35.

10 A. Fire way.

11 Q. In paragraph 35 you state, "It is my opinion  
12 that Cablz' receipt of the Best of Show award and other  
13 recognitions noted by Chisolm and Jernigan was not in  
14 recognition of any innovative, new or nonobvious,  
15 stay-off-the-neck feature of Cablz' eyewear retainers."  
16 Did I read that correctly, sir?

17 A. You did.

18 Q. And is that your opinion here today?

19 A. Yes, sir.

20 Q. And are you planning to offer that opinion  
21 in the trial of this matter?

22 A. Yes, sir.

23 Q. Let me start by asking you what you mean in  
24 the parenthesis there where you say, "and other  
25 recognitions noted by Chisolm and Jernigan"?

1           A.     I don't have the thing in front of me so --

2           Q.     Well, I've got their reports here. I will

3     --

4           A.     I don't remember what it is, but I wrote it  
5     at the time. As I remember it -- I'm not going to weed  
6     through those 90 pages.

7           Q.     Well, sir, I'm going to go ahead and mark  
8     them as exhibits and give you the opportunity to do so  
9     because I do -- I would like an answer to the question  
10    of what you're referring to in your report about those  
11    recognitions.

12                   I'm marking as Plaintiff's Exhibit 7 the  
13    report of Joe Jernigan dated June 30 2014, and  
14    Plaintiff's Exhibit 8, report of Beirne Chisolm, High  
15    Mountain Marketing, LLC dated June 30th, 2013.

16                   (Exhibit 7 is marked for  
17    identification.)

18                   (Exhibit 8 is marked for  
19    identification.)

20           MR. GIGGER: Are you going to him read  
21    through the whole thing or are you going to point him  
22    to somewhere in there?

23           MR. HILL: Well, he just references  
24    generally in his report other recognitions noted by  
25    Chisolm and Jernigan, so I would like to know what

1       that language is referring to.

2           A.     I'll tell you what, rather than read it,  
3       strike that parenthesis out.

4           Q.     Fair enough.

5           A.     And just let it say that --

6                   MR. GIGGER:   Why don't you give us a  
7       second.   Can we take a break?

8                   MR. HILL:    Sure.

9                   MR. GIGGER:   Off the record.

10                   (Brief recess is taken.)

11                   THE WITNESS:  All right.  I'm back.  Do  
12       you want to swear me in again?

13       BY MR. HILL:

14           Q.     Mr. Sosin, we took a short break so you  
15       could discuss your previous statement of striking the  
16       information contained in the parenthetical in paragraph  
17       35 of your report, "And other recognitions noted by  
18       Chisolm and Jernigan."

19                   We're back on the record.  Do you still  
20       maintain your decision to strike that portion of  
21       paragraph 35?

22           A.     I can't remember where in that I found it or  
23       what it was.  And based on that and the fact that I  
24       don't want to be here until tomorrow morning trying to  
25       read 90 pages, strike it.

1 Q. Thank you, sir.

2 A. And let it read, "It is my opinion that  
3 Cablz' receipt of the Best of Show is not in recognition  
4 of any innovative, new or nonobvious stay-off-the-neck  
5 feature of Cablz' eyewear retainers."

6 Let me just remind you that I did this 50  
7 years ago and it stays off the neck and that's not the  
8 first one. There were ones before me.

9 Q. Thank you, sir. And the opinion you just  
10 stated, upon what facts or data is that opinion based?

11 MR. GIGGER: Objection as to form.

12 A. I don't understand the question.

13 Q. You are taking the opinion in this case that  
14 Cablz' receipt of the Best of Show award was not in  
15 recognition of any innovative, new or nonobvious  
16 stay-off-the-neck feature of Cablz' eyewear retainers,  
17 correct?

18 A. Right.

19 Q. What facts or data support that opinion of  
20 yours?

21 A. Well, I'll show you Exhibit 9 and Exhibit 10  
22 that were done before, years ago. They stay off the  
23 neck. Fifty years ago I had glasses that stayed off the  
24 neck. I still have glasses that stay off the neck.

25 Q. And any other facts or data that support

1 that opinion?

2 A. All you have to do is look at them.

3 Q. Well, how was it that Cablz won the Best of  
4 Show award, sir?

5 MR. GIGGER: Objection as to form.

6 A. I don't know how they won but I can tell you  
7 this, that not everybody who votes has an overall  
8 knowledge of fishing, the fishing business, what goes on  
9 in the world. Many of them are localized or  
10 regionalized who vote, and it may impress them, it may  
11 look good, may be anything else. But to tell me that  
12 it's innovative when I came up with this thing 50 years  
13 ago, that's hard for me to swallow.

14 Q. Do you have any reason to dispute the fact  
15 that Cablz won the Best of Show award in 2009 because it  
16 received the most votes?

17 MR. GIGGER: Objection as to form.

18 A. I have no way of knowing but I assume they  
19 received the most votes.

20 Q. A limited number of ICAST attendees cast  
21 votes, correct?

22 A. Correct.

23 Q. And on their ballots, innovation was the  
24 first consideration listed, correct?

25 MR. GIGGER: Objection as to form.

1           A.     According to the sheet of 2009.

2           Q.     And presumably at least some voters voted  
3 for Cablz because Cablz won in its category, correct?

4                   MR. GIGGER:  Objection as to form.

5           A.     Correct.

6           Q.     And it's your opinion that the voters that  
7 voted for Cablz did not do so in recognition of any  
8 innovative, new or nonobvious stay-off-the-neck future  
9 of Cablz' eyewear retainers, correct?

10          A.     Say that again.

11          Q.     It's your opinion that the voters that voted  
12 for Cablz in 2009 at ICAST did not do so in recognition  
13 of any innovative, new or nonobvious stay-off-the-neck  
14 feature of Cablz' eyewear retainers?

15          A.     I'm not sure I understand what you're  
16 saying.

17          Q.     I'm just trying to understand your opinions  
18 in this case, sir.  And as I understand --

19          A.     Well, all I'm saying is that you can say  
20 whatever you want about it being innovative, new, stay  
21 off the neck and I just pick up Exhibit 9 and 10 and  
22 show you that 50 years ago they were staying off the  
23 neck.  What's so new and innovative about that?

24          Q.     So is your opinion -- I want to make sure I  
25 have your opinion straight, sir.  Are you giving the



1 opinion that you just don't think Cablz was innovative  
2 or are you giving the opinion that voters at ICAST in  
3 2009 did not vote Cablz Best of Show because it was  
4 innovative?

5 MR. GIGGER: Objection as to form.

6 A. I'm not saying neither. I'm saying that --  
7 well, no, let me back that up. I'm not saying what the  
8 voters did. I have no idea what the voters did. I have  
9 no idea that they put innovation first and something  
10 else last. You don't know what a voter did when he  
11 votes.

12 All I'm saying is that you can't claim that  
13 keeping it off the neck was innovative and that what  
14 they did was innovative. They may have used a different  
15 material than I did, but it's the same thing. And I've  
16 had mine for 50 years. And I walked around with it, it  
17 was on national television for 27 years, and everything  
18 else. So it wasn't a big, deep, dark secret held by  
19 some guy in South Florida.

20 Q. And so you can't sit here today and say  
21 whether or not the voters who voted on Cablz' product in  
22 2009 did so because they thought it was innovative?

23 MR. GIGGER: Objection as to form.

24 A. No, I can't -- I can't say why they voted  
25 for it.

1           Q.     And it's quite possible that because  
2 innovation was listed on the balot that some of them  
3 could have voted for it because they thought it was  
4 innovative?

5                     MR. GIGGER:  Objection to form.

6           A.     Absolutely, absolutely.  I don't know how  
7 they voted.  That's what I'm trying to tell you.  They  
8 could have voted anything.  When you elect a politician  
9 I don't know why people vote for them, for this one and  
10 that one.

11          Q.     And in preparing your opinions for this case  
12 did you do anything to determine why 2009 voters voted  
13 the way they did?

14                     MR. GIGGER:  Objection as to form.

15          A.     If you figure out how to do that, you tell  
16 me.  No, I did not.

17          Q.     Did you conduct a survey of how those voters  
18 voted?

19                     MR. GIGGER:  Objection as to form.

20          A.     I don't even know who voted.

21          Q.     Did you obtain a list of voters from ICAST  
22 in 2009?

23          A.     No.

24                     MR. GIGGER:  Objection as to form.

25          Q.     Have you ever obtained a list of voters from

1 ICAST for any year?

2 A. No.

3 MR. GIGGER: Objection as to form.

4 Q. Can you identify who the voters were in  
5 2009?

6 MR. GIGGER: Objection as to form.

7 A. No.

8 Q. Can you tell me how many voters there were  
9 in 2009?

10 A. No.

11 Q. Can you tell me how the number of voters in  
12 2009 compares with the number of voters in any of the  
13 years surrounding 2009?

14 A. No.

15 MR. GIGGER: Objection to form.

16 Q. Have you contacted anyone who cast a vote at  
17 ICAST in 2009 to discuss their vote?

18 A. No.

19 MR. GIGGER: Objection to form.

20 Q. Have you interviewed any 2009 voter about  
21 his her or vote?

22 A. No.

23 MR. GIGGER: Objection as to form.

24 Q. Can you tell me how many votes were cast in  
25 favor of Cablz in 2009?

1 MR. GIGGER: Objection as to form.

2 A. How many votes what?

3 Q. Were cast in favor of Cablz in 2009?

4 A. No.

5 Q. Can you give me the name of any person who  
6 voted for Cablz in 2009?

7 MR. GIGGER: Objection as to form.

8 A. No.

9 Q. Have you spoken to any person who voted for  
10 Cablz in 2009 about their vote?

11 MR. GIGGER: Objection as to form.

12 A. No.

13 Q. Can you give me the name of any person who  
14 voted in 2009 but chose not to vote for Cablz?

15 MR. GIGGER: Objection as to form.

16 A. No.

17 MR. GIGGER: Is there any difference  
18 between these?

19 Q. Can you tell me any other products that were  
20 competing with Cablz in the apparel category in 2009?

21 MR. GIGGER: Objection as to form.

22 A. No.

23 Q. Can you tell me how many entrants there were  
24 in Cablz' product categories?

25 A. How many what?

1 Q. Entrants there were in Cablz' product  
2 category in 2009?

3 A. No.

4 MR. GIGGER: Objection as to form. He's  
5 been asked this several times.

6 Q. Sitting here today you can't tell me why any  
7 particular voter voted the way they did in 2009?

8 MR. GIGGER: Objection as to form. He's  
9 been asked this several times.

10 A. That is correct.

11 Q. In paragraph 35 of your report you also  
12 state, and I'm going to quote from it so take a look if  
13 you would like to.

14 "In my opinion, many of the voters have no  
15 particular experience or qualifications to comment on  
16 what is innovative, new or nonobvious, and often vote  
17 for something that they think is new to the market (even  
18 if old in the industry) or because they like its  
19 appearance."

20 Did I read that correctly, sir?

21 A. Yes.

22 Q. And is that your opinion here today?

23 A. Yes.

24 Q. And are you planning to offer that opinion  
25 in the trial of this matter?

1           A.     Yes.

2           Q.     Let me ask you this, what do you mean when  
3 you say the word "experience" in that opinion?

4           A.     Well, they don't have -- I could substitute  
5 the word "knowledge" for experience. But they just  
6 haven't been around in enough places, enough times to  
7 know what's happening. Most of them are regionalized in  
8 their writing. And in the upper midwest this is not a  
9 top priority.

10          Q.     And in that opinion what do you mean when  
11 you say "qualifications"?

12          A.     Have the experience and the knowledge.

13          Q.     To do what, sir, experience and knowledge to  
14 do what?

15          A.     To judge what's new or what's innovative or  
16 what matters. I go back to the kayak this year. I mean  
17 this is a fishing tackle show and they come up with the  
18 idea that the kayak is really innovative, or what they  
19 did to the kayak. It's hard to believe when you have  
20 rods, reels, lines, lures. At a boat show, yes; fishing  
21 tackle show, no.

22          Q.     In your opinion, sir, what experience and  
23 qualifications would an ICAST voter have needed in 2009  
24 to be able to comment on what was innovative, new or  
25 nonobvious?

1           A.     More of a universal fishing experience.

2           Q.     And what do you mean when you say universal  
3 fishing experience?

4           A.     Different parts of the country, different  
5 parts of the world, different species. There is only a  
6 handful of writers who can go from trout with a 6x  
7 tippet and a fly rod to big game offshore. I once  
8 counted them.

9           Q.     And how many did you count?

10          A.     Seven including me because I was trying to  
11 get a job at a magazine and I wanted to know who my  
12 competition was.

13          Q.     So how many of the 2009 voters possess the  
14 requisite experience and qualifications to enable them  
15 to comment on what was innovative, new or nonobvious?

16          A.     I have no idea. I don't know who voted in  
17 2009, but you already knew that.

18          Q.     So you can't identify any voters who had the  
19 requisite knowledge and experience?

20          A.     I can't identify any voters period. I don't  
21 know who voted in 2009.

22          Q.     Have you spoken with any 2009 voter about  
23 the experience that he or she possessed at the time of  
24 the vote?

25          A.     No.

1 MR. GIGGER: Objection as to form.

2 You've asked these again and again.

3 Q. Have you spoken with any 2009 voter about  
4 qualifications he or she possessed at the time of the  
5 vote?

6 MR. GIGGER: Objection as to form.

7 A. No.

8 Q. How many resumes or CVs of 2009 voters did  
9 you review to support your opinion?

10 MR. GIGGER: Objection as to form.

11 A. None.

12 Q. How many 2009 voters have you interviewed  
13 regarding the experience and qualifications they  
14 possessed in 2009?

15 MR. GIGGER: Objection as to form.

16 A. None.

17 Q. Did you do anything to determine what  
18 experience and qualifications the 2009 voters possessed  
19 before rendering your opinion in this case?

20 MR. GIGGER: Objection as to form.

21 A. No.

22 Q. Sitting here today can you identify a single  
23 voter that cast a vote at ICAST in 2009 who, in your  
24 opinion, lacked the experience and qualifications  
25 necessary to comment on what was innovative, new or



1 nonobvious at the time?

2 MR. GIGGER: Objection as to form.

3 A. No.

4 Q. Can you identify for me here today any 2009  
5 ICAST voter who voted for Cablz because they thought  
6 Cablz product was new to the market?

7 MR. GIGGER: Objection as to form.

8 A. No.

9 Q. Can you tell me sitting here today how many  
10 voters voted for Cablz on the basis that they thought  
11 Cablz' product was new to the market?

12 MR. GIGGER: Objection as to form.

13 A. No.

14 Q. Can you identify for me here today any 2009  
15 ICAST voter who voted for Cablz because they liked the  
16 appearance of Cablz' product?

17 A. No.

18 MR. GIGGER: Objection as to form.

19 Q. Can you tell me how many voters voted for  
20 Cablz on the basis that they liked the appearance of  
21 Cablz' product?

22 MR. GIGGER: Objection as to form.

23 A. No.

24 Q. You can't tell me sitting here today why any  
25 particular voter in 2009 voted the way they did, can

1     you?

2             A.     No.

3                     MR. GIGGER:  Objection as to form.

4             Q.     Other than the opinions that we've  
5     discussed, are you offering any other opinions relating  
6     to the ICAST award that Cablz won in this case?

7                     MR. GIGGER:  Objection as to form.

8             A.     Am I offering any other opinions to what?

9             Q.     Other than the opinions that we've just  
10    discussed, are you referring any other opinions relating  
11    to the ICAST award that Cablz won --

12                    MR. GIGGER:  Objection as to form.

13            Q.     -- in this case?

14            A.     Not that I can think of.

15            Q.     And specifically just to be clear, I'm  
16    referring to paragraph 35 of your report where you  
17    state, "It is my opinion that Cablz' receipt of the Best  
18    of Show award was not in recognition of any innovative,  
19    new or nonobvious stay-off-the-neck feature of Cablz'  
20    eyewear retainers," and also you state in paragraph 35,  
21    "In my opinion, many of the voters have no particular  
22    experience or qualifications to comment on what is  
23    innovative, new or nonobvious, and often vote for  
24    something that they think is new to the market (even if  
25    old in the industry) or because they like its

1 appearance."

2 And my question is other than those two  
3 opinions, are you offering any opinions relating to any  
4 other --

5 A. Yeah, I would ask you to strike "even if old  
6 in the industry." Since you can't enter anything that  
7 wasn't --

8 MR. GIGGER: No.

9 THE WITNESS: You don't want to do that?

10 MR. GIGGER: We don't want to be  
11 striking your report.

12 THE WITNESS: Okay.

13 Q. So --

14 A. I'll answer that --

15 Q. Do you want to strike that or not?

16 A. No.

17 Q. All right. Sir, I would like to ask you  
18 about paragraph 36 of your report.

19 A. Thirty-six.

20 Q. Paragraph 36 you offer the opinion that  
21 Chums, Croakies and other eyewear retainer companies did  
22 not offer a stay-off-the-neck retainer prior to Cablz  
23 due to the fact that Chums, Croakies and other eyewear  
24 retainer companies are interested in selling eyewear  
25 retainers, and as acknowledged by Chisolm, there was not

1 general consumer demand for this type of product which  
2 may be partly due to the fact that many of us in the  
3 fishing industry simply and cheaply made our own  
4 stay-off-the-neck eyewear retainers for decades.

5 Is that a fair statement of your opinion?

6 MR. GIGGER: Objection as to form.

7 A. Ah, pretty much.

8 Q. And is that your opinion here today?

9 MR. GIGGER: Objection as to form.

10 A. Yes.

11 Q. And are you planning to offer that opinion  
12 in the trial of this case?

13 MR. GIGGER: Objection as to form.

14 A. Yes.

15 Q. Do you believe that you're qualified to  
16 opine about the business decisions of eyewear retainer  
17 companies relating to what products they offer?

18 A. Say that again.

19 Q. Do you believe that you're qualified to  
20 opine, to give an opinion about the business decisions  
21 of eyewear retainer companies relating to what products  
22 they offer?

23 A. No, I'm not -- I don't deal in that.

24 Q. Did you interview anyone in management at  
25 any eyewear retainer company, including Chums and

1 Croakies, prior to forming the opinion you express in  
2 paragraph 36 about why they did not offer certain  
3 product?

4 A. No, and as I told you before, I didn't talk  
5 to anybody in either company.

6 Q. Have you spoken with anyone at any eyewear  
7 retainer company, including Chums and Croakies, about  
8 why they did or did not offer a stay-off-the-neck  
9 eyewear retainer at any period in time?

10 A. No.

11 Q. Do you have any experience in eyewear  
12 retainer sales?

13 A. No.

14 MR. GIGGER: Objection as to form.

15 Q. Do you have any experience in gauging  
16 consumer demand for eyewear retainers?

17 A. No.

18 Q. What facts or data support your conclusion  
19 that the lack of consumer demand for a stay-off-the-neck  
20 eyewear retainer may be partly due to the fact that some  
21 in the fishing industry had made their own retainers?

22 A. For years and years and years we never  
23 thought of anybody making this thing commercially, and  
24 if they did, would they make it as good as we did. And  
25 so far I haven't seen one as good as mine.

1 Q. Have you ever done any market research to  
2 gauge consumer demand for eyewear containers?

3 MR. GIGGER: Objection as to form.

4 A. No, I don't sell eyewear retainers.

5 Q. In preparing your opinion for the trial in  
6 this matter did you review any market research relating  
7 to eyewear retainers?

8 MR. GIGGER: Objection as to form.

9 A. No.

10 Q. In preparing your opinions for this matter  
11 did you conduct any customer surveys?

12 A. No.

13 MR. GIGGER: Objection as to form.

14 Q. Did you review any customer surveys?

15 MR. GIGGER: Objection as to form.

16 A. No.

17 Q. In preparing your opinions for this matter  
18 did you talk to any individuals employed by eyewear  
19 retainer companies?

20 MR. GIGGER: Objection as to form.

21 A. No.

22 Q. Sitting here today do you have any numbers  
23 you can give me about the number of people in the  
24 fishing industry who have made their own retainers?

25 MR. GIGGER: Objection as to form.

1 A. No.

2 Q. Do you have any numbers you can give me  
3 about the number of these retainers in use at any given  
4 time?

5 MR. GIGGER: Objection as to form.

6 A. No.

7 Q. Other than the opinions that we have  
8 discussed here today, will you be offering any other  
9 opinions at the trial of this matter?

10 A. As of today probably not. If I come up with  
11 other thoughts after today, possibly.

12 Q. So it's possible that you may supplement  
13 your report with additional opinions?

14 A. If I come up with other thoughts.

15 Q. With that we'll reserve the right to  
16 redepose him.

17 Sir, I would like to ask you a couple of  
18 questions about Exhibit E to your report.

19 A. Exhibit E?

20 Q. Yes, sir.

21 A. That comes before G, right?

22 Q. Yes, sir.

23 A. I'm sorry.

24 Q. Are you there?

25 A. Oh, yeah, yeah.

1 Q. My apologies.

2 A. I think I'm there. Wait a minute.

3 Q. I'm looking at Exhibit E on page 23, sir.

4 A. I'm a page off. I'm sorry. Yeah.

5 Q. Can you generally just tell me what's

6 depicted in Exhibit E?

7 A. What what?

8 Q. What these photographs depict I'm just

9 asking?

10 A. What these photographs show?

11 Q. Yes, sir.

12 A. Well, if you look at the top one on the

13 right you can see the bait rigging floss, you can see

14 the line is standing clear of my head, not touching my

15 neck. You can see the bait rigging floss on the second

16 and the third pictures the way we -- that's the retainer

17 we used and the way we secured it.

18 Q. It looks like on the left of those pictures

19 you just described for me there is also pictures of your

20 videotapes --

21 A. Yes.

22 Q. -- is that correct?

23 A. Yes.

24 Q. And does the picture on the right come from

25 the videotape on the left?



1                   MR. GIGGER: I think it tells you in the  
2 report.

3                   MR. HILL: What paragraph is that, do  
4 you know?

5                   MR. GIGGER: I don't know. I think  
6 you're asking whether the specific picture came from  
7 the specific video cassette?

8                   MR. HILL: Right.

9                   Q.     Yeah, I'm just asking if the picture on the  
10 right is -- came from the video on the left, if you  
11 know?

12                  A.     I would think so, but I can't remember.

13                  Q.     And on the second page of Exhibit E, page 24  
14 of your report, can you tell me what that is?

15                  A.     Yeah, that offers these videos for sale. If  
16 you look at the numbers on the bottom it's got different  
17 prices on there. It says Mark Sosin's Sales Center.

18                  Q.     All right. Exhibit F, sir, can you tell me  
19 what that depicts?

20                  A.     Yeah. This, as far as I can remember, shows  
21 questions that I was asked on my website. I tried to  
22 make myself available to the public. I think you watch  
23 somebody on television, wouldn't it be nice if you can  
24 contact them and communicate directly. And these are  
25 examples of questions I got and answers I took the time

1 to write.

2 Q. And do you still maintain that website, sir?

3 A. No, sir. I'm semiretired, let me remind  
4 you.

5 Q. Is that one of the obligations you gave up?

6 A. It's one of the perks, yeah. And I don't  
7 have the television show anymore.

8 Q. And Exhibit G, sir, can you tell me -- looks  
9 like paragraph 37 of your report, you state that it's a  
10 picture that IGFA used when they inducted you into the  
11 Hall of Fame?

12 A. Yeah, they doctored it up some but they -- I  
13 didn't do it. They took it and they put the glasses --  
14 made sure the glasses were around my neck.

15 Q. And is that a photograph or a painting?

16 A. You know, I'm trying to figure what it is.  
17 The actual one in the thing is kind of like a painting  
18 or they doctor it up or they do something to all of  
19 these. They look like photographs but they also -- they  
20 take the color out, most of them are black and white.

21 Q. And so is this framed somewhere?

22 A. I don't know where they got it. They never  
23 asked. You'd be surprised how few people ask you for  
24 things.

25 Q. And then Exhibit H, sir, appears to be --

1           A.     When -- when I went on television I told you  
2     I went with Sina Sport in Little Rock, Arkansas. The  
3     company was owned by a man named Frank Vestel  
4     (phonetical) who is deceased and 30 years ago when I  
5     started Frank gave me this painting. He kind of  
6     surprised me with it and the light isn't in there,  
7     that's the light in my office. And I put it in there  
8     because you can see the glasses hanging around my neck.

9           Q.     And is that --

10          A.     And I didn't tell him.

11          Q.     And is that the painting -- is that painting  
12     hanging in your office today?

13          A.     Yes.

14          Q.     Has it ever been publicly displayed  
15     anywhere?

16          A.     No. And the little picture down there is my  
17     older son.

18          Q.     And going back to Exhibit G quickly, do you  
19     recall when it was that you were inducted into the  
20     IGFA --

21          A.     IGFA.

22          Q.     -- Hall of Fame?

23          A.     Do I recall what?

24          Q.     I believe you testified to this earlier but  
25     do you recall the time when you were inducted?

1 A. Yes, 2004.

2 Q. So that's the year this would have been  
3 done?

4 A. Yeah, I was just a kid back then.

5 Q. And you testified Exhibit H was painted  
6 approximately 30 years ago?

7 A. Yes, still had chubby cheeks.

8 Q. How about Exhibit I, sir?

9 A. Exhibit I was painted, I believe, in 2001.  
10 I had helped Dave Macose (phonetic) who is an artist  
11 with various things, lending of tackle or posing for  
12 him. And then one day he surprised me and he sent me  
13 this tarpon. He knew I loved tarpon fishing, sent me  
14 the tarpon thing and he put my face just kind of in the  
15 background in the upper, right-hand corner and I didn't  
16 know it was coming. And if you turn the page to page  
17 29, you can see what he did with my glasses.

18 What we're trying to show is that I've had  
19 these for a long time. People associate me with them.  
20 Twenty-seven years with them on national television, in  
21 magazine articles, in books and everything else. That  
22 hat and those glasses are trademarks.

23 Q. And since the time you received this  
24 painting where has it been displayed, sir?

25 A. It's in my family room.

1 Q. Has it ever been displayed publicly?

2 A. No. You've got more? Pick some good ones.

3 MR. HILL: We can go off the record a  
4 couple of minutes if you need to.

5 (Discussion is held off the record.)

6 BY MR. HILL:

7 Q. Okay. Thank you, sir. This one we'll mark  
8 as Plaintiff's Exhibit 9. It's a document entitled  
9 Re-Notice of Deposition. I'm going to include with that  
10 a subpoena.

11 (Exhibit 9 is marked for  
12 identification.)

13 A. I'm sorry you don't have video. I don't  
14 wear this jacket very often.

15 Q. Relating to your deposition here today, I  
16 would ask for you to take a look at those documents and  
17 see if you recognize them.

18 A. What do I do now? Oh, you're waiting for  
19 me?

20 Q. Certainly. Once you're done reviewing those  
21 documents.

22 A. I don't know what you want so go ahead.

23 Q. Well, I direct your attention to page eight  
24 of your Deposition Notice.

25 A. Which one, this?

1           Q.     A document, list of document requests  
2 starting on page eight.

3           A.     List of document requests.

4           Q.     For the record, I'll note that you have --  
5 Chums' counsel has raised, I believe, attorney/client  
6 privilege and work product objections to to 2, 4, and  
7 11.

8                   MR. GIGGER: I haven't seen it, so I  
9 can't speak to it.

10                  MR. HILL: Well, I'll ask my questions  
11 with that, with those objections?

12                  MR. GIGGER: We received this when I was  
13 traveling so I don't know what objections were  
14 raised.

15 BY MR. HILL:

16           Q.     Mr. Sosin, I would like to step through  
17 these with you real quick and make sure there is not  
18 anything responsive that you haven't provided to Chums'  
19 counsel. Question one we've got your resume with the  
20 report, correct?

21           A.     You have my professional background, yes.

22           Q.     Question two asked for all correspondence,  
23 memoranda, field notes, investigations, experiments,  
24 demonstrations, photographs, maps, charts, diagrams,  
25 video tapes or any other item gathered, tested, provided

1 to or obtained by you (or anyone working on your  
2 behalf), reviewed by you (or anyone working on your  
3 behalf), or created in the course of your investigation  
4 of and in rendering your opinions in this case.

5 Have you provided anything responsive to  
6 request number two to Chums' counsel?

7 MR. GIGGER: That would be obviously  
8 subject to the objections, work product raised.

9 MR. HILL: Right. Sure.

10 A. Just Exhibit 9 and 10 and whatever these  
11 exhibits are.

12 Q. Right. I'm just -- I would like for you to  
13 look at these and make sure there is nothing else out  
14 there that you haven't provided --

15 A. No.

16 Q. -- Chums' counsel. And how about item  
17 number three, sir, anything responsive to number three?

18 A. Number seven. I don't have a list of all  
19 the books, treatises or articles, you know, and I'm not  
20 going to give you a list of 3,000 plus articles, 5,000  
21 scripts.

22 Q. All right. Are there any other, of the  
23 requests here that ask for information that you're aware  
24 exist, that you haven't provided to Chums' counsel?

25 A. No. You know more about it than I do.

1           Q.     And we've already received all the documents  
2     that you brought with you here today, correct?

3           A.     Yes.

4           Q.     Mr. Sosin, have you told me here today about  
5     all of the opinions that you plan to offer at trial in  
6     this case?

7                   MR. GIGGER: Including what's in his  
8     report? Is that what you're asking?

9                   MR. HILL: I'm just asking today have we  
10    discussed all of the opinions that you are planning  
11    to offer --

12                  MR. GIGGER: And I just want to make  
13    sure it's clear that not everything in his report was  
14    discussed today. So if we're clear that that's  
15    referring to what was discussed, plus what's in the  
16    report, I just want to make sure he understands  
17    that's what you're talking about.

18          Q.     Well, I'll ask are there any opinions in  
19    your report that we haven't discussed today?

20                  MR. GIGGER: I think the report kind of  
21    speaks for itself. We don't need to have him go  
22    through his report and see what we have and haven't  
23    talked about, do we?

24          Q.     Other than paragraphs 35 and 36 in your  
25    report, are there any other opinions that you plan to



1 offer at the trial in this matter?

2 MR. GIGGER: Objection as to form.

3 A. Not that I know of at this time.

4 Q. Are there any opinions contained within your  
5 report that we have not discussed here today?

6 MR. GIGGER: Objection as to form.

7 A. I don't know. I didn't look -- count all of  
8 them, but whatever I know is in that report.

9 Q. Well, sir, I would like for you to take the  
10 time here to review your report and let me know if there  
11 are any opinions you plan to offer --

12 MR. GIGGER: That's unreasonable to have  
13 him go through his whole report and pick out every  
14 line that we haven't talked about today. I mean that  
15 would take hours to compare with the transcript that  
16 he doesn't have in front of him.

17 Q. Okay. Well, I'll ask it this way, sir, what  
18 opinions are you planning to offer at trial in this  
19 matter?

20 MR. GIGGER: Objection to form.

21 A. Let me say I haven't thought about the  
22 trial, whether there is going to be one or there isn't  
23 or anything else. I thought about this. And the major  
24 thing is something that stands off the back of your neck  
25 is not new, it's 50 years old. There are other ways of

1 doing this. I don't consider the modern things a great  
2 innovation. It's just another way of doing what we did  
3 here. That's basically it. I'm a fisherman.

4 Q. And I'll ask you this again, sir. Other  
5 than paragraphs 35 and 36 of your report, are there any  
6 opinions that you plan to offer testimony as an expert  
7 on in the trial of this case?

8 MR. GIGGER: Objection as to form.

9 Q. And please take all the time you need to  
10 look back over your report.

11 MR. GIGGER: To make the record clear, I  
12 think it's unreasonable to ask him to pick out every  
13 line from his report that has or hasn't been  
14 discussed today.

15 MR. HILL: I'm not asking him that,  
16 Josh. I'm just asking to identify the opinions he's  
17 going to testify about as an expert at trial.

18 MR. GIGGER: Yeah. And we'll identify  
19 things in accordance with the trial schedule, but you  
20 have his expert report. It says what it says. You  
21 have his testimony here today. I mean you have what  
22 he is planning, as of today, to testify to. I don't  
23 think you need him to go line by line because it's  
24 just not possible for him to tell you every line that  
25 was or wasn't discussed.

1                   MR. HILL: And I think it's perfectly  
2 reasonable for an expert to disclose the opinions  
3 they're planning to offer at trial.

4                   MR. GIGGER: And that's why you have the  
5 report with his opinions and you are allowed to ask  
6 him about those opinions. So I think you have his  
7 opinions.

8                   MR. HILL: And I'm just asking if there  
9 are any opinions he's planning to give at trial that  
10 we have not discussed here today.

11                  MR. GIGGER: How about you ask him if  
12 there any opinions that are not in his report or were  
13 not discussed today. I think that's the  
14 comprehensive question you're trying to get at.

15                  Q. I'll be glad to ask him that as well. But I  
16 will ask first whether there are any opinions that you  
17 plan to offer at trial that we have not discussed here  
18 today?

19                  MR. GIGGER: Objection as to form.

20                  A. I can't answer that because I don't know  
21 what I'll think of tomorrow or the day after. But up to  
22 now, I thought we pretty well covered my thoughts and  
23 feelings on the whole thing about the glasses, how the  
24 concept that Cablz used was done 50 years ago. My  
25 thoughts on Best of Show Award, those are the basic

1 things.

2 Q. And other than the opinions we discussed  
3 today, anything contained within your report, are there  
4 any additional opinions that you plan to offer testimony  
5 about at trial as an expert?

6 A. Not that I know of today.

7 Q. Have we talked about today all of the work  
8 that you've done in this case to develop and support  
9 your opinions as an expert?

10 MR. GIGGER: Objection as to form.

11 A. All of the work I've done to support my  
12 opinion?

13 Q. Yes, sir.

14 A. Yeah. We've talked about everything I've  
15 done.

16 Q. Sitting here today do you have plans to do  
17 any further work on this case prior to trial?

18 A. I can't answer that.

19 Q. Why not, sir?

20 MR. GIGGER: He's just asking as of  
21 today do you have any plans to do anything else, I  
22 mean may be related or something that comes up but as  
23 of now do you have any plans?

24 A. No, no. I didn't understand the question.

25 Q. Do you have any plans to submit any -- a

1 supplemental report?

2 A. Not right now.

3 Q. A revised report?

4 A. No.

5 Q. Any additional report?

6 A. No.

7 MR. HILL: Take just a couple of  
8 minutes. I think I'm --

9 MR. GIGGER: Off the record.

10 (Brief recess is taken.)

11 CROSS-EXAMINATION

12 BY MR. GIGGER:

13 Q. Mr. Sosin, you understand that you're still  
14 under oath?

15 A. I do.

16 Q. We've had a chance to talk today about  
17 Visser Exhibits 9 and 10. Do you see those in front of  
18 you?

19 A. Oh, yes.

20 Q. And just to make sure the record is clear  
21 since it's -- this is not being video-taped, I just want  
22 to ask you a couple of questions about those exhibits.  
23 So, why don't you gap Visser Exhibit 9, please, and do  
24 you see that?

25 A. Yes.

1 Q. And do you recognize what that is?

2 A. Well, what what is?

3 Q. What Visser Exhibit 9 is?

4 A. Yes. It's a pair of my glasses with  
5 retainers attached to them.

6 Q. Okay. And what are the retainers doing on  
7 your device?

8 A. Well, the retainers cause the monofilament  
9 that I use here as a retainer to stand straight out the  
10 back of my head.

11 Q. Okay. And what are your retainers made out  
12 of?

13 A. Well, the retainers are made out of bait  
14 rigging floss, 35-pound test bait rigging floss.

15 MR. HILL: I'm going to object to the  
16 use of the word "retainer" to the extent it's an  
17 issue in any counterclaim instruction in this matter.

18 THE WITNESS: What can't I use?

19 MR. GIGGER: Do you have a preferable  
20 term to retainer? What would you like me to call it?

21 MR. HILL: You can call it whatever you  
22 want to, but I'm just going to object to that  
23 terminology in the questioning.

24 THE WITNESS: Well, it keeps the glasses  
25 from --

1           Q.     Let me do this, Mark, we've used the term  
2 "retainer" referring to the bait rigging floss; is that  
3 correct?

4           A.     Yes.

5           Q.     Do you think that's an appropriate term for  
6 the bait rigging floss?

7           A.     Yes.

8           Q.     Can you tell me why?

9           A.     Because it keeps the monofilament where it  
10 is. It retains the glasses, it keeps them on my neck.  
11 That's what a retainer does. Whether you stick it on  
12 the back, you put it here or like the guy on the plane  
13 did, just tie a clinch knot right here in the middle.  
14 They're all retainers of some sort or another.

15          Q.     Okay. The monofilament that you referred  
16 to, how many ends does it have?

17          A.     How many what?

18          Q.     Ends?

19          A.     Ends.

20          Q.     E-N-D-S?

21          A.     It has two ends.

22          Q.     Okay. And can you tell me where each of  
23 those ends are located on your device?

24          A.     One on each temple bar underneath either the  
25 retainer or whatever we call it these days.

1 Q. I'm sorry. Under the temple retainer?

2 A. Yes.

3 Q. Okay. And I believe you testified earlier  
4 as to your choice of the monofilament, can you tell us a  
5 little bit more about that, why you chose 300-pound  
6 test?

7 A. First of all, it was readily available.  
8 Everybody had monofilament and this was nothing more  
9 than leader material and I had it and it's easy to use.  
10 All you have to do is stick the end in a candle and it  
11 flares, it won't pull out. It's a logical choice.

12 Q. So you've testified that you've used this  
13 type of an eyewear retention device for approximately  
14 the last 50 years or so; is that correct?

15 A. Yes, sir.

16 Q. And is there any material variation between  
17 what you're looking at Exhibit 9, Visser Exhibit 9 and  
18 what you've used over the last 50 years?

19 A. Well, I think that the monofilament has  
20 improved.

21 Q. But did that improvement in the monofilament  
22 change the stiffness or ability of the --

23 A. No.

24 Q. -- monofilament to stay off your neck?

25 A. No. My main purpose was to keep this off my



1 neck and also to secure it. I didn't want it to come  
2 off. I mean in the heat of battle sometimes your  
3 glasses come off, things happen, and I didn't want to  
4 lose them. I want this permanent and that's what I did.

5 Q. So if you didn't want it permanent you might  
6 have chosen a different temple retainer?

7 A. Could do that.

8 Q. Let me ask you this, Mark, over the last 50  
9 years that you've used this eyewear retainer, what  
10 different types of weather conditions has it been  
11 exposed to?

12 A. Everything from brutally hot sunlight with  
13 no breeze and a lot of sweat and sunblock all the way to  
14 in a small boat off of Yucatan with a hurricane bearing  
15 down on us and one of my guys wanting to swim ashore  
16 because he was afraid we wouldn't make it. And that was  
17 a forerunner of a hurricane and I still had the glasses  
18 and the retainer and they still look the same.

19 Q. And in your experience how did the eyewear  
20 retainer perform under those different weather  
21 conditions?

22 A. You can't tell the difference.

23 Q. In those different weather conditions did  
24 the eyewear retainer maintain its shape?

25 A. Did it what?

1 Q. Maintain its shape?

2 A. Oh, yeah. You can't -- if you take  
3 300-pound test mono you can bend it and it snaps right  
4 back to where it goes.

5 Q. And in your 50 years of using this eyewear  
6 retainer, still referring to Visser Exhibit 9 and those  
7 that were similar to it over the last few years, have  
8 you ever used it while wearing suntan lotion?

9 A. Yes.

10 Q. And did it ever get soiled with suntan  
11 lotion?

12 A. No.

13 MR. HILL: Object to form.

14 Q. And in your 50 years of using this eyewear  
15 retainer did you ever sweat while using the eyewear  
16 retainer?

17 A. Surely you gest. Yes.

18 Q. And did your eyewear retainer, in particular  
19 the monofilament, ever get soiled with sweat?

20 MR. HILL: Object to form.

21 A. No. I mean you look at these, these have  
22 been worn under all kinds of conditions and they look as  
23 good as the ones on my neck and all three look the same.

24 Q. Mark, I'm going to ask you a couple of  
25 questions about the videos that were marked as Exhibits

1       --

2           A.     Three.

3           Q.     -- 3A, B and C.  Do you recognize those?

4           A.     Yes.

5           Q.     And I think it was stated earlier that these

6 videos were a collection of your television show Mark

7 Sosin's --

8           A.     Saltwater Journal.

9           Q.     -- saltwater Journal, correct?

10          A.     Yes.

11          Q.     And when -- do you know when those videos  
12 that are in front of you as Exhibits 3A, B and C, when  
13 those videos were put together?

14          A.     Yes.  They're copy written in 1999.

15          Q.     Okay.  So it's your understanding that those  
16 videos were made in 1999?

17          A.     We always copyright the year that they were  
18 edited, not necessarily when they were shot, but when  
19 they are edited.

20          Q.     Okay.  So, Mark, is it your understanding  
21 that the -- each of the Mark Sosin's Saltwater Journal  
22 episodes that were shown on those videos were all made  
23 prior to 1999?

24          A.     Yes.

25          Q.     And are these the same Mark Sosin's

1 Saltwater Journal episodes that were shown on ESPN and  
2 other channels?

3 A. Yes.

4 Q. And those would have all been shown prior to  
5 1999?

6 A. Yes.

7 Q. Mark, previously we looked at some printouts  
8 from your website; do you recall those?

9 A. Yes.

10 Q. I believe that's in Exhibit 1 of your expert  
11 report in Exhibit E; do you recall that?

12 A. Yes.

13 Q. And is it your understanding that those  
14 pictures next to the -- strike that.

15 Mark, do you see the pictures on the right  
16 column of your expert report?

17 A. Yes.

18 Q. And how many pictures are there there?

19 A. Three.

20 Q. And is it your understanding that those  
21 pictures are from the videos that we just spoke of that  
22 are in Exhibits 3A, B and C?

23 A. Yes.

24 Q. And it's your understanding that these  
25 pictures are from episodes of Mark Sosin's Saltwater

1 Journal that were aired prior to 1999?

2 A. Yes.

3 Q. Mark, earlier you were asked some questions  
4 about the filming of a video on your dock; do you recall  
5 that discussion?

6 A. Yes.

7 Q. I believe there was a discussion as to how  
8 many takes or how many shots, how many times the video  
9 was shot; do you recall that?

10 A. Yes.

11 Q. And can you explain why so many shots were  
12 taken?

13 A. Sure. You've got to understand the video  
14 business. Everybody thinks that you just go out there  
15 and shoot and it's edited and put together. That's not  
16 the way you do quality work. What you do is one camera  
17 is going to shoot the basic scene and then the second  
18 camera or third, if you have it, is going to go and get  
19 what we call cutaways. And he can't do everything at  
20 one time, he's got to move and focus and do it so that  
21 even though they came out correctly each time and were  
22 easy to do, I did it more than once because they could  
23 then shoot various stages of that and you would have a  
24 complete video.

25 Q. And so is it your understanding that the

1 video wasn't shot several times because of any problems  
2 in putting your eyewear retainer on the glasses?

3 A. No, no, no. They went on each time.  
4 They're very simple to put on. I mean once I show you,  
5 anybody can do it. It's just wrapping the dental floss  
6 or the bait rigging floss around like that, you get to  
7 the end, you put a loop of line here, you wrap back over  
8 it four, five, six times, stick the end in the loop,  
9 pull the loop through, trim it and it's done.

10 So if you can wrap bait rigging floss around  
11 like this (indicating), that's all you've got to do.

12 Q. Mark, earlier there were some questions  
13 about Costa and Costa providing you with eyeglasses; do  
14 you recall that?

15 A. Yes.

16 Q. Has Costa provided you with any glasses in  
17 connection with this lawsuit?

18 A. I don't think Costa knows that I'm even  
19 involved in this lawsuit.

20 Q. So you've had no discussions with Costa  
21 about this lawsuit?

22 A. No. They don't talk to me that much. They  
23 want me to wear the glasses because I'm well-known. I  
24 have glasses hanging around my neck every day of my life  
25 and they want their glasses hanging there. Now, I've

1 done some talks for them, I've done some appearances for  
2 them, but basically they want Mark Sosin, he's got Costa  
3 hanging on his neck.

4 Q. So you've had no correspondence or  
5 communications with Costa about this lawsuit?

6 A. No, no.

7 Q. And as far as you know, they don't even know  
8 that you're involved with this lawsuit?

9 A. No. They have know knowledge. If they know  
10 it, they didn't find out from me.

11 Q. Mark, earlier there was some questions about  
12 your appearances at ICAST over the last 53 years or so;  
13 do you recall that?

14 A. Yeah, I can't forget it. Yes.

15 Q. One line of questions talked about your  
16 appearance at ICAST in 1999; do you recall that?

17 A. 1999?

18 Q. I'm sorry, excuse me. Go ahead and strike  
19 that.

20 Your appearance -- do you recall some  
21 questions about your attendance at ICAST in 2009?

22 A. Vaguely.

23 Q. And did you testify at that time that you  
24 saw Cablz or at least -- strike that again.

25 Mark, can you tell me about the first time

1 that you saw Cablz' eyewear retainer?

2 A. It was at an ICAST show I assume since they  
3 had just -- in order to enter the Best of Show, it has  
4 to be a new product. So -- and that was done in 2009 so  
5 I assume the year was 2009 that I saw them there. And I  
6 was just walking down the aisle and I saw this thing and  
7 the first impulse in my head was, gee, they copied what  
8 I've been doing for 50 years.

9 Q. And why was that your first thought that  
10 they copied you?

11 A. Well, they had something that held -- held  
12 the line off the back of your neck. That's what I saw.  
13 I mean and I've been doing that for 50 years.

14 Q. So you're referring to Visser Exhibit 9, you  
15 held that up as you were answering the question?

16 A. Yes.

17 Q. And you're referring to the fact that the  
18 eyewear retainer extends backward from the glasses and  
19 straight back?

20 A. Yes.

21 MR. HILL: Object to the form.

22 Q. And can you explain why you thought that  
23 that was -- that Cablz had copied that?

24 A. Well, I've been doing it for 50 years and,  
25 you know, it's not like I just live in a little house



1     someplace. I mean we would reach a million households a  
2     week on television. And I had 27 years on television,  
3     plus all kinds of other things and I figured they saw it  
4     and came up with a different way of doing it.

5           Q.     And so is it fair to say that when you saw  
6     Cablz' product which extended backward from the  
7     glasses --

8           A.     Yes.

9           Q.     -- in sort of that arch shape, you saw the  
10    similarities between that and what you're holding,  
11    Visser Exhibit 9?

12           MR. HILL: Object to the form.

13           A.     Oh, yeah, yeah. To me I mean it was the  
14    same concept.

15           Q.     Okay. Mark, at that time is it your  
16    understanding that you approached the Cablz' booth?

17           A.     Yes.

18           Q.     And -- but you don't recall the conversation  
19    you had at that time?

20           A.     No. I know I said something but I don't  
21    know what I said. You know, it's hard for you guys to  
22    remember, but I didn't know that there was going to be a  
23    trial in 2014 or I would have prepared better.

24           Q.     Taken some pictures. Mark, I'm handing you  
25    what's been marked as Plaintiff's Exhibit 1, a copy of

1 your expert report.

2 Would you turn to paragraph --

3 A. What page?

4 Q. Thirty-five on page 13.

5 A. I'm only a page off. Go.

6 Q. So do you recall being questioned about the  
7 ICAST Best of Show Awards earlier today?

8 A. Yes.

9 Q. And do you recall being asked about ICAST's  
10 Best of Show requiring a new product?

11 A. Yes.

12 Q. And what -- what's your understanding of a  
13 new product as far as ICAST is concerned?

14 MR. HILL: Object to the form.

15 A. To me a new product is not a variation on a  
16 theme. What do you need?

17 Q. I'm sorry. I didn't mean to distract you.  
18 Why don't I re-ask the question. I cut you off.

19 Mark, I'm going to hand you what's been  
20 marked as Plaintiff's Exhibit 5 and there is a  
21 definition of a new product under What Qualifies as a  
22 New Product; do you see that?

23 A. Yes.

24 Q. Do you mind reading that?

25 A. "A product qualifies as "new" if it has not

1 appeared in national distribution in the North American  
2 market, at any level of distribution, prior to January  
3 1, 2009, or appeared in any 2008 (or earlier) product  
4 catalog."

5 Q. So, Mark, was your eyewear retention device,  
6 again Visser Exhibit 9, was that ever in national  
7 distribution?

8 A. No.

9 Q. And so based on that is it your  
10 understanding that new product -- strike that. Could  
11 Cablz' product be a new product for ICAST without  
12 considering your eyewear retention device?

13 MR. HILL: Object to form.

14 A. I'm sure it could be.

15 Q. Is it your understanding that new product as  
16 used by ICAST in that exhibit is referring to a  
17 commercially sold product?

18 MR. HILL: Object to form.

19 A. Oh, yeah. It specifically says has not  
20 appeared in national distribution in the North American  
21 market.

22 Q. Okay. So it's your understanding that a new  
23 product for ICAST means a product that was not  
24 commercially sold prior to the applicable date?

25 A. Correct.

1 MR. HILL: Object to form.

2 Q. Mark, is it your opinion that Cablz' product  
3 is a new product?

4 MR. HILL: Object to form.

5 A. No.

6 Q. Why is that?

7 A. It's just a different way of doing what  
8 we've been doing for 50 years.

9 Q. Okay. And when you say that, is it your  
10 understanding that -- strike that. In your experience  
11 attending ICAST in the New Product Showcase, were you  
12 ever given samples of products that weren't sold to  
13 determine whether the new products are innovative over  
14 those products?

15 A. No. Only -- the only products that can go  
16 in there, you have to be an exhibitor, you have to have  
17 a booth and then you can submit a new product provided  
18 it meets the guidelines in the New Product Showcase. I  
19 believe it's Exhibit 5.

20 Q. So in your experience at ICAST in attending  
21 the New Product Showcase you were never given other  
22 products to make a determination on whether the new  
23 products were innovative over the old products?

24 MR. HILL: Object to form.

25 A. No, no. What it says here, and once again

1     what qualifies, it's new if it has not appeared in  
2     national distribution in the North American market at  
3     any level of distribution prior to 1, January, 2009.

4             Q.     When you attended ICAST in 2009, were any of  
5     the voters, to your knowledge, provided with a sample of  
6     your eyewear retention device --

7             A.     No.

8             Q.     -- similar to Visser Exhibit 9?

9             A.     No.

10            Q.     Mark, do you have any reason to believe that  
11     a majority of the voters at ICAST were aware of your  
12     eyewear retainer device when they were voting in the  
13     2009 New Product Showcase?

14                   MR. HILL:   Object to form.

15            A.     I have no way of knowing whether the  
16     majority does or doesn't, no.

17            Q.     To your knowledge, the voters weren't given  
18     a sample of your product before voting?

19            A.     You can't.   It's a -- you've got to  
20     understand what the New Product Showcase is, it is very  
21     well controlled continuously.   You can't even walk in  
22     the room, no matter who you are, until they open it at  
23     5:30 Tuesday night.

24            Q.     Mark, you talked earlier about the basis for  
25     your opinion that the -- strike that.   Let me go back.

1 Referring now to Exhibit 1 of your deposition, your  
2 expert report. In paragraph 35 you gave an opinion in  
3 the second line it says, "As a member of the fishing  
4 industry media and ICAST participant for more than 40  
5 years, it is my opinion that Cablz' receipt of the Best  
6 of Show award and other --

7 A. We struck that.

8 Q. -- was not in recognition of any innovative,  
9 new or nonobvious stay-off-the-neck feature of Cablz'  
10 eyewear retainers." Is that your opinion?

11 A. That's my opinion.

12 Q. And is that opinion based on your prior  
13 eyewear retention device?

14 A. Yes.

15 MR. HILL: Object to form.

16 Q. And would you please explain your basis for  
17 that opinion?

18 A. Well, I wasn't the first one. This is my  
19 device but there was one before mine that I knew of and  
20 that also kept the line off the back of your neck and  
21 that was developed by a group of young fishermen in  
22 Miami who I nicknamed the Young Turks. And I used their  
23 system until they made the temple bars thinner and more  
24 curved and the original temple bars came out -- and I'm  
25 holding Exhibit 9. The original temple bars came out

1       straighter so the monofilament came in straight. And  
2       once they changed that you had to come up with a new  
3       system and I came up with this system.

4           Q.       So it's your opinion that because Cablz'  
5       product had similarities to your product, Visser Exhibit  
6       9, the -- strike that.

7                    It's your opinion that the Cablz' product  
8       was not innovative because of the similarities to your  
9       prior eyewear retainer?

10           MR. HILL: Object to form.

11          A.       Not just mine but other people using similar  
12       ones. I mean it's been in use a long time by a number  
13       of people, guides, fishermen, whatever that I've come in  
14       contact with. So you can't say that stay-off-the-neck  
15       feature is really innovative.

16          Q.       And this is the same -- so referring to your  
17       eyewear retainer, this is the same eyewear retainer that  
18       you used on cable television for 27 years?

19          A.       Yes.

20          Q.       And this is the same eyewear retainer that  
21       was discussed on your website?

22          A.       Yes.

23          Q.       And both of those -- strike that. Your  
24       website was publicly available prior to 2007, correct?

25          A.       MarkSosin.com.

1 Q. And your videos were on television prior to  
2 2007, correct?

3 A. Yes.

4 Q. Okay. And so it's your opinion based on  
5 that that the Cablz' product is not innovative?

6 MR. HILL: Object to form.

7 A. Yes.

8 Q. And -- and so do you believe that the  
9 voters' intent at the ICAST 2009 New Product Showcase is  
10 relevant to whether the product is, in fact, innovative?

11 MR. HILL: Object to form.

12 A. Whether the voters --

13 Q. Let me ask it a different way. Your opinion  
14 that the Cablz' product was not innovative is based on  
15 your prior eyewear retention device, correct?

16 A. Yes.

17 Q. And your opinion that the Cablz' product is  
18 not new or novel is based on your prior eyewear retainer  
19 product, correct?

20 A. Yes.

21 Q. And your opinion that the Cablz' product is  
22 not nonobvious is based on the -- your prior eyewear  
23 retainer device, correct?

24 MR. HILL: Object to form.

25 A. Yes.



1           Q.     Mark, you testified earlier about the  
2     experience and qualifications of those that vote in the  
3     ICAST New Product Showcase.

4           A.     Yes.

5           Q.     Have you had experience with people that do,  
6     in fact, vote at the New Product Showcase?

7           A.     Yes.

8           Q.     And do those people include members of the  
9     press?

10          A.     Yes.

11          Q.     And why, in your opinion, do those  
12     individuals lack the experience or qualifications to  
13     determine whether a product is innovative or new?

14                 MR. HILL: Object to form.

15          A.     A lot of them focus their interests either  
16     locally or regionally. They do not have an overview of  
17     the country as a whole or other countries, so that  
18     they're limited in their thinking to what they see and  
19     what they do.

20                 There is stuff in here where one writer  
21     wrote that he noticed them and wrote about them, I  
22     believe in 1991. But most of the writers -- you know,  
23     they give you the form, they don't tell you at ICAST,  
24     they give you the form. They don't tell you is it  
25     innovative, is it this, is it that, is it the other

1     thing. Here is a form, pick the product you like best  
2     and vote for it, okay, in all these categories. That's  
3     what happens. It's a mad house.

4                 One of the reasons I don't vote is I don't  
5     look at all the products, I talk to my friends.

6                 Q.     So when you get the form at ICAST you  
7     generally read the entire form to figure out what the  
8     rules are?

9                 MR. HILL: Object to the form.

10                A.     No, and neither do most people in my  
11     judgment.

12                Q.     And why do you have that opinion?

13                A.     Because the women that hand it out tell them  
14     to just put down the product you think is best in each  
15     category. I don't know how they pick Best of Show.

16                Q.     Mark, when you mention that people have  
17     regional or local experience, can you tell me a little  
18     bit more about what you mean by that?

19                A.     Well, take the guy in the upper midwest or  
20     Chicago where the show used to be and he fishes Lake  
21     Michigan. He doesn't have in his mind the same  
22     requirements as the guy who fishes the tropical flats in  
23     South Florida. The writer who covers that, who lives  
24     there and covers that may go to Florida once every two  
25     or three years but doesn't have an overall thing. He's

1 not there all the time. He's not focussing on that.

2 He's not writing books on that.

3 Q. So is it your opinion that the voters from  
4 other parts of the country may not be familiar with your  
5 eyewear retention device?

6 MR. HILL: Object to the form.

7 A. I would think so. I mean they know that I  
8 hang them and know I have an eyewear retention device,  
9 but what it is or how it works, I don't think the world  
10 knows, the whole world. But enough people do know.

11 Q. Just a few more questions, Mark.

12 A. We're not going into tomorrow?

13 Q. Mark, can you refer to Exhibit D in Exhibit  
14 1, that's your expert report, Exhibit D.

15 A. One more page. I'm there.

16 Q. I apologize if this was already asked and  
17 answered but the -- do you recognize that picture?

18 A. Yes.

19 Q. And what's shown in that picture?

20 A. A pair of my polarized glasses showing the  
21 temple bar retainer and the monofilament standing clear  
22 of my head and neck.

23 Q. And is it your understanding that that's the  
24 same eyewear retainer system that you've used for 50  
25 years?

1 A. Yes.

2 Q. Mark, do you see Exhibit E, do you see  
3 eyewear retainers in those pictures?

4 A. Yes.

5 Q. Is it your understanding that those were the  
6 same eyewear retainer systems that you've worn for the  
7 last 50 years?

8 A. Yes.

9 Q. Mark, do you see page 24 of your expert  
10 report?

11 A. Yes.

12 Q. Exhibit 1. And this is a -- what is this,  
13 Mark?

14 A. Well, it says Mark Sosin Sales Center, and  
15 the top line says videos, so I assume it is sales of  
16 exhibits 3A, B and C.

17 Q. So when you talked earlier about about your  
18 videos being for sale on your website, this is the  
19 website that you were referring to?

20 A. Yes.

21 Q. And this website was selling the videos  
22 marked as Exhibit 3 prior to 2007?

23 A. Yes.

24 Q. Flipping the page to Exhibit F of your  
25 expert report.

1 A. Yes.

2 Q. And you spoke earlier about answering  
3 questions that people submitted to you?

4 A. Yes.

5 Q. And does Exhibit F show representative  
6 questions and answers that you received?

7 A. I can't read it well, but I would think it  
8 does.

9 Q. Okay. And were these questions posted on  
10 your website prior to 2007?

11 A. Oh, yeah.

12 MR. GIGGER: Thank you. I don't have  
13 any more questions.

14 MR. HILL: I've just got a couple of  
15 followups.

16 THE WITNESS: Somehow I knew.

17 REDIRECT EXAMINATION

18 BY MR. HILL:

19 Q. Mr. Sosin, you testified today a couple of  
20 times about when you first happened upon Cablz' booth at  
21 the ICAST trade show.

22 A. Right.

23 Q. Sitting here today do you recall whether  
24 when you spoke to the individual at the Cablz' booth,  
25 whether he knew who you were?

1 A. No.

2 Q. Is that a no, you didn't or no, you don't  
3 recall?

4 A. No, I don't recall whether he knew who I was  
5 or not.

6 Q. And at the 2009 ICAST trade show --

7 A. After 2009?

8 Q. No, no. I'm just asking you a question. At  
9 the 2009 --

10 A. Oh, at the --

11 Q. -- 2009 ICAST trade show did you hear the  
12 individuals passing out the ballots telling the voters  
13 to pick the product that's best in each category?

14 A. I don't remember what they said in 2009. I  
15 only remember this year.

16 Q. And you also testified, sir, relating to  
17 voters' experience and qualifications about regional  
18 voters; do you recall your testimony about that, sir?

19 A. Yes.

20 Q. Can you identify a single voter who cast a  
21 vote in 2009 Best of Show ICAST who lacked the  
22 experience and qualifications to determine whether a  
23 product was innovative because of their limited regional  
24 scope?

25 A. As I noted earlier, I don't know who voted

1 in 2009 so I couldn't begin to tell you.

2 Q. Sir, are you planning to offer in the trial  
3 of this matter any opinion relating to whether Cablz'  
4 products were obvious or not obvious?

5 A. Say that -- I'm not sure I understand that.

6 MR. GIGGER: Objection as to form.

7 Q. At the trial of this matter are you planning  
8 to offer any opinion relating to whether Cablz' products  
9 are obvious or nonobvious in the light of other  
10 products?

11 A. I still don't understand what it means. I  
12 understand the question.

13 MR. GIGGER: I think I can cut this  
14 short. We're not putting up Mr. Sosin as an expert  
15 to testify as to the legal standard of obviousness  
16 and whether his device renders the claims obvious.

17 MR. HILL: That does clear it up. Thank  
18 you.

19 Mr. Sosin, that's all the questions I  
20 have.

21 THE WITNESS: We're done. Does Shari  
22 know that?

23 MR. GIGGER: I just want to make sure I  
24 reserve the right on the record to review the  
25 transcript or to have Mark review it and mark it and

1 signed as appropriate.

2 MR. HILL: Mark, thank you. Very nice  
3 talking to you today.

4 MR. GIGGER: Let the record show that  
5 Chums' counsel, Josh Gigger, is going to maintain  
6 possession of Exhibit, Visser Exhibit 10, Visser  
7 Exhibit 9, Exhibit No. 2 to the Sosin declaration,  
8 Exhibits 3A, B and C to the Sosin declaration --  
9 deposition, and Exhibit 4 to the Sosin deposition.

10 (Deposition of MARK J. SOSIN is  
11 concluded at 3:11 P.M. with reading and signing  
12 having been reserved.)  
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## CERTIFICATE OF OATH

I, the undersigned, for the State of Florida, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand, which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

In witness thereof, I have this date subscribed my name this 24th day of August, 2014.

---

Shari Grimsgaard  
Notary Public, State of Florida  
My Commission #EE70087  
Expires March 3, 2015.

## REPORTER'S DEPOSITION CERTIFICATE

STATE OF FLORIDA:  
COUNTY OF PALM BEACH:

I, Shari Grimsgaard, Court Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that I was authorized to and did report the deposition of MARK J. SOSIN, in the above styled cause; that the foregoing pages, numbered from 1 to 212, inclusive, constitute a true and complete record of my notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor financially interested in the action.

Dated this 24th day of August, 2014.

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Shari Grimsgaard  
Notary Public, State of Florida  
My Commission #EE70087  
Expires March 3, 2015

1     DATE:   August 24, 2014  
2     TO:     Mark J. Sosin  
3     RE:     Cablz versus Chums

4           Please take notice that on August 20, 2014  
5     you gave your deposition in the above-referenced matter.  
6     At that time you did not waive signature. It is now  
7     necessary that you sign your deposition. Please contact  
8     the office of New Wave Depo at (561) 368-8587 to make  
9     arrangements to come in and read your deposition.

10           If you do not read and sign the deposition within  
11     30 days, we shall conclude that you have waived the  
12     reading and signing of the deposition transcript.

13           Please sign your name in the blank at the bottom of  
14     this page and return it to us upon completion.

15           Very truly yours,

16  
17  
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19           \_\_\_\_\_  
20           Shari Grimsgaard

21           I do hereby waive my signature:

22  
23  
24  
25           \_\_\_\_\_  
26           Witness

## ERRATA SHEET

IN RE: Cablz versus Chums  
COURT REPORTER: Shari Grimsgaard  
DEPOSITION OF: Mark J. Sosin  
TAKEN: August 20, 2014

DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE  
PAGE# LINE# CHANGE REASON


Please forward the original signed errata sheet to this office so that copies may be distributed to all parties.

Under penalty of perjury, I declare that I have read my deposition and that it is true and correct subject to any changes in form or substance entered here.

DATE: \_\_\_\_\_

SIGNATURE OF

DEPONENT: \_\_\_\_\_