

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS  
DEPARTMENT

SUPERIOR COURT

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JOSEPH F. DUGAS and )  
PAUL REVERE III )  
 )  
Plaintiffs )  
 )  
v. )  
 )  
PETER ROBBINS and )  
JOHN DOE )  
 )  
Defendants )  
\_\_\_\_\_

C. A. No. BACV2008-491

**SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT OF THE  
PLAINTIFFS' OPPOSITION TO DEFENDANT ROBBINS'  
SPECIAL MOTION TO DISMISS**

**INTRODUCTION**

Plaintiffs, Joseph F. Dugas and Paul Revere, III (“Plaintiffs”), submit this supplemental memorandum in support of their opposition to the Special Motion to Dismiss, and in response to the submission of supplemental affidavits by the Defendant. In his affidavit submission, the Defendant, Peter Robbins, unsuccessfully attempts to re-characterize his published news reports as “petitioning activity” within the meaning of the anti-SLAPP statute by asserting that the dredging of Barnstable Harbor “affects [him] personally and is the reason why [he] decided to write a post in the Robbins Report.” As revealed during his deposition, however, Mr. Robbins’ did not write and publish the news reports at issue to exercise his right of petition as defined by the anti-SLAPP statute.

### ROBBINS AS BOAT CAPTAIN

Attempting to claim some impact upon himself, Robbins characterizes himself as a licensed boat captain. While Robbins possesses the most basic form of a captain's license, which allows him to take six or fewer paying passengers on his boat, he admits that for him, boating is not a commercial venture. DUG0017-0019. The fact that he is licensed as a boat captain is wholly irrelevant to the issue of whether the publication of the articles constitutes petitioning activity. In fact, Robbins was only able to identify a single, paying charter he captained during his entire boating career. DUG0012. This charter allegedly occurred in July, 2008 – well after publication of the articles - when unidentified photographers were walking on the docks in Barnstable Harbor, “and they said, ‘Do you charter this out?’ Robbins responded “Yeah, Sure.” DUG0012. The photographers allegedly paid Robbins \$125 in cash for the charter but there is no record of the transaction and Robbins “has no idea” of the identity of even one of the photographers DUG0011 – 0012.

Additionally, there is no evidence that the dredging of Barnstable Harbor affects Robbins personally as alleged in his affidavit. Robbins’ boat drafts only two feet, two inches of water, and he testified that he has never had any problem navigating in the channel and except when “weekend warriors” cause traffic problems which push him out of the channel. DUG0014-0015. In fact Robbins testified that the only time he has ever run aground in Barnstable Harbor was at night time when he left the confines of the channel. He “came in at an angle, and the bow nudged into the dirt.” DUG0016. There

was no damage to Robbins boat and he was able to navigate back into the channel by putting the boat in reverse and backing off the sand. DUG0016. There is no evidence that Robbins could have avoided running aground if the channel was dredged. In fact Robbins testified that the only damage that he suffered was to his ego because he prides himself on knowing the harbor. DUG0017.

Robbins' assertion that he is a boat captain is a red herring. His status as a boat captain is irrelevant to the legal analysis of whether or not Robbins was engaged in petitioning activity when he wrote and published the three news articles that form the basis of the Plaintiffs' Complaint.

#### **ROBBINS' MOTIVATION**

Robbins did not attend a single public hearing concerning the dredging of Barnstable Harbor. His reason for not attending was "for the amount of money I get paid for writing an article, I put enough time into it without having to go out and put more time into it" DUG0029. Robbins' excuse for not attending the hearings demonstrates, beyond peradventure, that his motivation was his pocketbook rather than petitioning the government for redress on his own behalf. In fact, the following colloquy establishes that Robbins' purpose in writing the article was not to influence the outcome of any government proceeding.

Q. So, specifically, my question was: Were you attempting to influence the outcome of some government proceeding?

A. No. I don't think that was my intent, no. If someone's response or interest in it generated that, did that, and the harbor could get dredged sooner, well, that would be wonderful.

Q. I take it you weren't attempting to obtain review from a governmental agency by publishing Exhibit Number 1, the article that's been admitted as Exhibit Number 1?

A. No, but if that happened, that would have been wonderful. DUG0047  
– 0048.

That Robbins may have desired to generate feedback from the public regarding the dredging of the harbor cannot magically transform publication of the articles into petitioning activity protected by the anti-SLAPP statute. Rather, the statutory protection Robbins seeks requires him to demonstrate that his **sole motivation and purpose** in writing the articles was to influence the government proceedings.

The anti-SLAPP statute provides protection against lawsuits ‘based on’ petitioning activities **alone** with no substantial basis **other than or in addition to** petitioning activities. *Duracraft Corp v Homes Prod Corp*, 691 N.E 2d 935, 940; 427 Mass. 156, 161 (1998) [emphasis supplied]. Even if the Court accepts Robbins’ self serving assertion that that the dredging of Barnstable Harbor “affects [him] personally and is the reason why [he] decided the write a post in the Robbins Report[.]” it cannot ignore the other substantial basis for Robbins’ publications – to earn money as an investigative reporter. Whether Robbins publishes articles in his capacity as a licensed boat captain, as a blogger, as a paid correspondent, or in some other capacity, is irrelevant. What is relevant is that Robbins possessed motivations, other than or in addition to his alleged personal concerns regarding the dredging of Barnstable Harbor and that his motivation was not to influence the public hearing regarding the harbor.

Furthermore, many of the defamatory statements are simply irrelevant to anything under review before any agency and had no basis in fact. For example, Robbins states in the March 11, 2008, article that the Requesters have a “hidden agenda.” Robbins

testified that the statement was based upon information given to him by Town Councilor Anne Cannedy and that he published that statement even though he didn't know what the "hidden agenda" was. DUG0030. The "agenda" of the individual filing an appeal of an environmental permit is simply irrelevant to the decision of the agency and cannot be considered by the agency in making its decision. Put another way, the anti-SLAPP statute was intended to protect statements that are part of the petitioning. Thus, the false, unsupported, and defamatory statement that the Plaintiffs were pursuing a "hidden agenda" is not petitioning activity.

#### **ROBBINS AS AN "INVESTIGATIVE REPORTER"**

In furtherance of his baseless effort to seek the protection of the anti-SLAPP Statute, Robbins attempts to distinguish himself from a news reporter by referring to himself as a "blogger" rather than a "reporter". During his deposition, however, Robbins was unable to "define what the difference between a reporter and a blogger is" DUG0057. That is because, at least in his case, there simply is no difference. Like reporters Robbins writes articles for publication. DUG0002-0006. He submits these articles to a managing editor for review. DUG0006, 0020. The articles are published following review and editing without further input from Robbins and Robbins is compensated. DUG0022-0023. Furthermore, Robbins admits that he is referred to as a CapeCodToday reporter and that he is flattered by his title. DUG0057. Mr. Robbins who is listed as an "Investigative Reporter" on the Cape CodToday website and is one of only five persons listed along with the Editor and Publisher; Managing Editor; Editor and the President of eCape, Inc. DUG0067. His inclusion in this select company demonstrates

that he is not a mere blogger on a host website as alleged, but rather is a “reporter” for CapeCodToday.com.

In his capacity as a CapeCodToday.com reporter, Mr. Robbins appeared on FOX Television’s “Hannity’s America” news program to discuss a breaking news story regarding an oil slick in Hyannisport Harbor allegedly emanating from Senator Ted Kennedy’s boat. See <http://www.youtube.com/watch?v=uhDahSZC928> During his deposition and like a reporter, Robbins refused to divulge the source of his photographs and information regarding this news story he broke. DUG0060

It is undeniable that Robbins’ posts are a large part of this commercial news venture. This is not a town-hall style public forum. Robbins does not simply post his material to a personal website. Editors review and approve the work prior to its publication DUG0003, 0020 They do not check with Robbins nor seek his permission to post the articles in their edited form DUG0022-0023. As Mr. Robbins put it, “ I just submit the photographs and the stories They post them the way they want” DUG0068. Robbins is compensated by eCape, Inc. on a per-submission basis for his work. DUG0002-0003, 0060-0061. Robbins received a 33% raise approximately four to five months prior to his deposition - a time period that corresponds with his publication of the defamatory articles and the Kennedy news stories. Id Robbins’ employer is paying for his legal defense in this case, further evidencing the business purpose and nature of his work. DUG0047 Such commercial activity cannot be misconstrued as “petitioning activity”, as defined in the anti-SLAPP statute.

## CONCLUSION

The Plaintiffs' lawsuit cannot be fairly characterized as a Strategic Lawsuit Against Public Policy. Ironically, the Plaintiffs are champions of public participation who engaged in their own petitioning activity prior to being defamed by Robbins. Robbins cannot meet his initial burden of showing that his conduct constituted solely "petitioning activity." Indeed, Robbins admits that in writing the Robbins Report, he was petitioning no one. Because Robbins is unable to meet his initial burden, the inquiry must end and Robbins' Special Motion to Dismiss must be denied. The Court should not reach the point in the anti-SLAPP analysis where the burden shifts to the Plaintiffs to demonstrate that Robbins' articles are devoid of any reasonable factual support or any arguable basis in law; or that Robbins' acts caused any actual injuries to the Plaintiffs.

WHEREFORE, the Defendant's Special Motion to Dismiss should be denied.

The Plaintiffs,  
Joseph F. Dugas  
Paul Revere III  
By and Through Their Attorneys



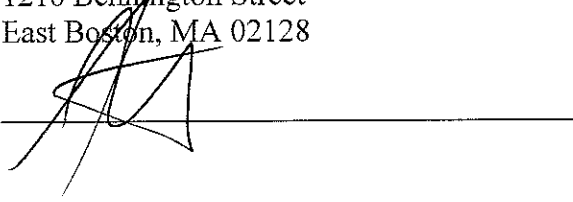
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**CERTIFICATION**

I hereby certify that a true and accurate copy of the within was served via email,  
first class mail, postage prepaid on the 6<sup>th</sup> day of November, 2008 to the  
following:

Peter Motin, Esq.  
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COMMONWEALTH OF MASSACHUSETTS  
BARNSTABLE, SS. SUPERIOR COURT DEPARTMENT

JOSEPH F. DUGAS AND	)	
PAUL REVERE, III	)	
Plaintiffs,	)	
	)	
VS.	)	C.A. NO. BACV2008-491
	)	
PETER ROBBINS AND	)	
JOHN DOE,	)	
Defendants.	)	

VIDEOTAPED DEPOSITION OF PETER S. ROBBINS, a Defendant in the above-entitled cause, taken on behalf of the Plaintiffs, pursuant to notice, before Nancy L. Simoes, R.P.R., a Notary Public in and for the Commonwealth of Massachusetts, at the Law Offices of Ratcliffe, Burke, Harten & Elias, LLP, 373 North Main Street, Fall River, Massachusetts, on October 6, 2008, scheduled at 10:00 A.M.

PRESENT:

For the plaintiffs....RATCLIFFE, BURKE, HARTEN & ELIAS, LLP  
373 North Main Street  
Fall River, MA 02720-2405  
By: J. Richard Ratcliffe, Esquire  
Richard J. Zabbo, Esquire

For the Defendants....FORD LAW P.C.  
1216 Bennington Street  
East Boston, MA 02128  
By: Peter Morin, Esquire

ALSO PRESENT:  
George Pita, Videographer  
Joseph Dugas

COURT ORIGINAL

1 Q. So, when I asked if you were employed, by saying  
2 you are retired, is the answer no, you are not  
3 employed?

4 A. I am employed from time to time by  
5 capecodtoday.

6 Q. Okay. So my question is: Are you employed, yes or  
7 no?

8 A. Yes.

9 Q. And who are you employed by?

10 A. Capecodtoday.

11 Q. In what capacity are you employed by capecodtoday?

12 A. I am a blogger.

13 Q. And what is a blogger?

14 A. A blogger is an independent person that  
15 writes stories and posts them through the  
16 capecodtoday website.

17 Q. Now, how are you compensated by capecodtoday for  
18 your blogging?

19 A. I am paid by each post.

20 Q. And is it a set amount for each post on  
21 capecodtoday?

22 A. Yes.

23 Q. What is the set amount?

24 A. It was \$75, and now it's \$100.

25 Q. When did it become \$100?

1 A. I don't recall.

2 Q. It's currently \$100?

3 A. Yes.

4 Q. For the past year, has it been \$100?

5 A. No, I think it was -- within the last four or  
6 five months; I can't recall.

7 Q. Now, who do you report to at capecodtoday?

8 A. Who do I report to?

9 Q. Correct.

10 A. I submit my stories via the Internet to the  
11 editor.

12 Q. Who is the editor?

13 A. Walter Brooks.

14 Q. Are your stories edited by Walter Brooks?

15 A. From time to time, yes.

16 Q. And how long have you been a blogger?

17 A. I think it was January of this year.

18 Q. January of 2008?

19 A. Either December or January, yeah.

20 Q. How did it come to be that you became a blogger  
21 for, or became employed for capecodtoday as a  
22 blogger?

23 A. I was taking a lot of photographs for other  
24 writers, bloggers, and I just took an interest in  
25 doing some writing on my own.

1 Q. How did you go about applying for a job at  
2 capecodtoday?

3 A. Just through general conversation with the  
4 editor..

5 Q. When did you first engage in discussions with the  
6 editor -- that's Mr. Brooks?

7 A. Uh-huh.

8 Q. -- about becoming a blogger for capecodtoday?

9 A. I don't recall the date.

10 Q. Well, how long of a period of time did you -- did  
11 you engage in negotiations with Mr. Brooks about  
12 becoming employed by capecodtoday as a blogger?

13 A. We had general conversations, yes, about an  
14 article or something. He said, "Well, if you write  
15 one and take some photographs, that would be  
16 great," you know.

17 Q. What was the first article -- well, what's the  
18 first article you wrote for capecodtoday?

19 A. I think it was about the Barnstable Town  
20 Dump.

21 Q. So, when you went -- when you were talking to  
22 Mr. Brooks about becoming employed as a writer for  
23 capecodtoday, did you tell him, you know, I've got  
24 certain ideas regarding articles I would like to  
25 write about, this, the dump, or something; did he

1 say, well, write a story, I'll look at it and see  
2 if we will publish it; or how did it work?

3 A. I had some ideas, like you said, and I sent  
4 them to him for review, and he posted it.

5 Q. Okay. So, you said you had some ideas, but did you  
6 talk to Mr. Brooks about your ideas before you  
7 actually wrote the stories?

8 A. I talked to him about the dump article, yeah.

9 Q. Did he give you any advice about how you should  
10 write the story, or what, you know, what to focus  
11 on?

12 A. No.

13 Q. So, you just said, basically, was the whole  
14 conversation, you know, you and Mr. Brooks, I would  
15 like to write a story about the dump; fine, write a  
16 story about the dump? Tell us about what your  
17 memory of the conversations you had with Mr. Brooks  
18 regarding your first story, this dump article?

19 A. I don't recall the particular conversations.  
20 It was just an idea that I had, and I believe it  
21 went something like, well, you know, write it up,  
22 and send it to me.

23 Q. Did you discuss, when you first spoke with  
24 Mr. Brooks about writing for capecodtoday, did you  
25 talk to him about whether or not you would be

1 compensated?

2 A. I don't know if we did at first. I just  
3 don't recall.

4 Q. You were compensated, though, for the first story,  
5 the dump article?

6 A. I don't recall. I really don't.

7 Q. Well, do you remember anything happening in your --  
8 where Mr. Brooks said, okay, these are good  
9 articles, I am going to start paying you, or did  
10 you just --

11 A. I just don't recall. I would just submit an  
12 article to him, and he would post it or would not,  
13 you know. That's the way it went.

14 Q. Did you ever submit articles that weren't  
15 published?

16 A. No. I don't think I have.

17 Q. Did anybody else at capecodtoday edit your articles  
18 other than Mr. Brooks?

19 MR. MORIN: Period of time, please?

20 MR. RATCLIFFE: At any time.

21 A. I believe there was -- there is a lady in the  
22 office by the name of Maggie, and I don't remember  
23 her last name, that would edit from time to time,  
24 and may still do -- I mean, probably still does.

25 Q. When did you first meet Walter Brooks?

1 A. No.

2 Q. When did Mr. Garnick file the Complaint against  
3 you?

4 A. I don't recall. Some time during that  
5 period.

6 Q. That was filed in the, again, in Barnstable --

7 A. Barnstable Superior Court.

8 Q. -- Superior Court? So, you took an early  
9 retirement; you're receiving a pension now from the  
10 Barnstable Sheriff's Department?

11 A. I am.

12 Q. Now, you stated that the lawsuit also involved an  
13 officer that was reprimanded, reprimanded by you?

14 A. I was ordered to reprimand a certain officer.

15 Q. Did you refuse to do that?

16 A. I reluctantly did it.

17 Q. What was the, if you recall, the nature of the  
18 allegation in the Superior Court Complaint  
19 regarding?

20 A. You know, I just don't recall.

21 Q. What was the allegation regarding the  
22 misappropriation of funds?

23 A. I was President of Harvard Associates, which  
24 is a police group involved in homicide  
25 investigation, and I was hosting a conference on



1 the Cape, where the Attorney General Harshbarger at  
2 the time was a guest speaker. I had gone to the  
3 County Commissioners for funding for the budget of  
4 this to assist, as we were the hosting agency.  
5 They appropriated a certain amount of funds; I  
6 don't recall what it was. With the funds, you  
7 know, certain gifts were bought for the attendees,  
8 T-shirts or pencils or whatever, and along with  
9 that, I paid for the Attorney General's room and  
10 expenses while he was at the hotel. And this, I  
11 mean, I didn't know that was the wrong thing to do,  
12 but apparently, they found that they didn't like  
13 the idea of that, that county funds were being  
14 spent for things like that, even though it went  
15 through the budgetary process and everything.

16 Q. So, the allegation was that you spent funds for  
17 this conference, for the room for Attorney General  
18 Harshbarger?

19 A. Yes, and T-shirts and things like that.

20 Q. Were there any other allegations in the Complaint,  
21 other than those?

22 A. Not to the best of my memory, no.

23 Q. All of the allegations regarding the  
24 misappropriation of funds involved that one  
25 conference?

1           A.    I believe there was also something in there  
2           about a, either a checking account or a Coke fund,  
3           if you will. We had a Coke machine at the police  
4           academy that everybody used to -- we would buy the  
5           Coke and put it in there, and the money that we  
6           used, we would use that for expenses at the  
7           academy.

8                   MR. MORIN:  Coca-Cola.

9                   THE WITNESS:  Coca-Cola, yes.

10          Q.    What was the allegation regarding the Coca-Cola  
11          fund?

12          A.    The money would go into a checking account  
13          that myself and the assistant director down there  
14          had control over for academy-related expenses.  
15          When it came to graduation dinners, we would pay  
16          for, you know, guests, and police chiefs or guest  
17          speakers, things like that. And, I mean, that was  
18          a past practice that I continued with; but it was  
19          something that, apparently, they thought they could  
20          use against me in some erroneous charges.

21          Q.    That was, you said, the assistant, there was  
22          somebody else that had signatory authority on that  
23          account?

24          A.    Yeah.

25          Q.    Who was that?

1           A.    I went through a couple of assistants there.  
2           So, I believe it was -- you know, I don't recall.  
3           I don't recall if it was Jim Fredericks or his  
4           predecessor, Ritchie Bonovita.

5    Q.    Would you spell Bonovita?

6           A.    B-O-N-O-T-I-V-A.

7    Q.    Was there any allegations made that Jim Fredericks  
8           or Mr. Bonovita were involved in any misconduct?

9           A.    No.  Nope.

10   Q.    You also said you are employed as a licensed boat  
11          captain?

12          A.    That's correct.

13   Q.    Okay.  By what entity?

14          A.    By myself.

15   Q.    What type of vessel do you captain?

16          A.    Presently?

17   Q.    Presently.

18          A.    Yes, it's, I believe it's a '72 Herreschoff  
19          Harbor Pilot, like a picnic boat.

20   Q.    How do you earn money as a licensed boat captain  
21          with the '72 Herreschoff Harbor Pilot?

22          A.    Not much lately.

23   Q.    I mean, how do you --

24          A.    I don't advertise or anything like that.

25          Occasionally, I will hang a sign on the boat, For

1 Hire.

2 Q. When is the last time that you had paying customers  
3 on your boat?

4 A. It was July of this year.

5 Q. What was the nature of the outing?

6 A. It was just for photography purposes.

7 Q. Can you explain that, what you mean, just for  
8 photography purposes?

9 A. They wanted pictures of Sandy Neck area.  
10 They wanted to go out and take pictures of the  
11 lighthouse, things like that.

12 Q. These were photographers?

13 A. Uh-huh.

14 Q. How did you -- how much did you charge them?

15 A. I think I charged them \$125.

16 Q. Now, how do you -- do you have an accountant that  
17 does your taxes?

18 A. No.

19 Q. Your '72 Herreschoff Harbor Pilot, is this -- do  
20 you depreciate that on your taxes?

21 A. I have only had it for one year, so it's the  
22 second year with it. So, no, I don't think I did.

23 Q. So, this is -- you have only had it for one year;  
24 where did you buy it?

25 A. I am trying to remember when I bought it. I

1           bought it down in Carolina. So, this may be the  
2           third year with it. This may be the third year  
3           with it.

4   Q.   When did you buy it?

5           A.   I believe three years ago. I believe three  
6           years ago.

7   Q.   Who were the photographers that hired you?

8           A.   Oh, I have no idea. I have no idea. I was  
9           down on the boat one day. They came walking down  
10          the dock, and they said, "Do you charter this out?"  
11          I said, "Yeah, sure."

12   Q.   Other than the photographers in July of this year,  
13          did you have any other charters during 2008?

14          A.   Not this year, no.

15   Q.   So, from January, 2008, until today, you have had  
16          one charter?

17          A.   Yeah.

18   Q.   How about in 2007?

19          A.   Paying charters, no.

20   Q.   How about in 2006, any paying charters?

21          A.   I don't recall.

22   Q.   To the best of your memory, in the entire three  
23          years that you have owned the boat, you have only  
24          had one paying charter?

25          A.   To the best of my memory.

1 Q. That was the \$125 for the photographers in July of  
2 this year?

3 A. (Witness nodding)

4 MR. RATCLIFFE: You have to say yes or  
5 no. She can't take --

6 A. Yes.

7 Q. Was that -- were you paid by cash or by check?

8 A. Cash.

9 Q. So, there are no records relating to this charter?

10 A. No.

11 Q. You can't recall the name of the people who  
12 chartered the boat?

13 A. No.

14 Q. Don't recall any of them?

15 A. Nope.

16 Q. It wasn't as a result of advertising that the boat  
17 was chartered; it was just somebody coming down and  
18 said, do you ever charter this out, and you said  
19 yes?

20 A. Correct.

21 Q. There was no sign on the boat at the time?

22 A. I don't recall if there was or not.

23 Q. Where do you leave the sign on the boat?

24 A. It's two oars that slide into a receiver for  
25 a rod holder.

1 Q. Is the boat in the water now, or is it --

2 A. It is.

3 Q. Is the sign on it?

4 A. No, I think it's in the cabin.

5 MR. RATCLIFFE: We will take a  
6 five-minute break.

7 THE VIDEOGRAPHER: It is 11:16 a.m., and  
8 we are off the record.

9 (BREAK TAKEN AT 11:16 TO 11:29 A.M.)

10 THE VIDEOGRAPHER: It is 11:29 a.m., we  
11 are on the record.

12 MR. RATCLIFFE: Before we took a break,  
13 we were discussing your boat, the '72 Herreschoff  
14 Harbor Pilot.

15 Q. Is that correct; is it a Harbor Pilot?

16 A. That's correct.

17 Q. When you say '72 Herreschoff, what does the 72  
18 refer to?

19 A. That's the year.

20 Q. How big is this boat?

21 A. It's 18 feet.

22 Q. How much does it draw?

23 A. About two foot two inches, I believe.

24 Q. Have you ever had any problems getting in -- where  
25 do you keep the boat?

1 A. In Barnstable Harbor.

2 Q. Have you ever had any problems getting in and out  
3 of Barnstable Harbor?

4 A. Have I, personally?

5 Q. Yes.

6 A. You know, coming in in the fog, sometimes,  
7 yeah.

8 Q. Any other problems, other than fog?

9 A. Um, when, you know, when there is larger  
10 boats or the weekend warriors are dropping their  
11 boats in, you have a lot of problem. You have a  
12 lot of traffic in the channel. Some people are not  
13 aware where the channel is, sometimes you get on  
14 collision courses with them, and you have to kind  
15 of nudge the bar or something.

16 Q. You have never run aground?

17 A. Have I, personally?

18 Q. You, personally.

19 A. Yes, I have.

20 Q. You, personally, have run aground?

21 A. Yes.

22 Q. When?

23 A. I believe it was last year. I couldn't tell  
24 the you the date.

25 Q. Where?



1           A.     Just on the -- just about at the edge of the  
2           breakwater, actually. Near the Millway Beach side.

3     Q.     Were you in the channel?

4           A.     I thought I was, yes.

5     Q.     But you weren't in the channel?

6           A.     I was just a little outside of it.

7     Q.     Did you do any damage to your boat?

8           A.     No.

9     Q.     How did you get loose?

10          A.     I backed off.

11     Q.     How did you back off?

12          A.     Put it in reverse and --

13     Q.     So, just the bow of the boat hit the sand?

14          A.     Yeah, just came in at an angle, and the bow  
15          nudged into the dirt.

16     Q.     When did that occur?

17          A.     It was a low tide. It was nighttime at low  
18          tide. I don't recall when it was. It was  
19          nighttime.

20     Q.     When did that occur?

21          A.     Some time in the summer last year.

22     Q.     This summer?

23          A.     Last year.

24     Q.     Summer of 2007?

25          A.     Uh-huh.

1 Q. Any other time that you have run aground?

2 A. No.

3 Q. There was no damage to your boat?

4 A. No.

5 THE WITNESS: Damage to my ego.

6 Q. Why damage to your ego?

7 A. Well, I just pride myself with knowing the  
8 harbor. I have been in it forever.

9 Q. Okay. Now, how did you get your -- you said you  
10 had to take some -- go to classes to get your  
11 captain's license?

12 A. Correct.

13 Q. Where did you take the classes?

14 A. New England Maritime Academy.

15 Q. And where is that?

16 A. It's on Ocean Street in Hyannis.

17 Q. When did you go to New England Maritime Academy?

18 A. I want to say it was '96.

19 Q. When did you get your captain's license?

20 A. Probably would have been '96 or '97.

21 Q. Is this a special captain's license that you can  
22 take charters?

23 A. Yes, for six passengers or less.

24 Q. How many passengers can you take on your  
25 Herreschoff?

1 A. If I am not chartering?

2 Q. If you are chartering.

3 A. I am only allowed to take six.

4 Q. Can you fit six people?

5 A. Oh, I can fit 12 people on that, yeah.

6 Q. And you have had the Herreschoff for three years,  
7 approximately, you testified to; correct?

8 A. Approximately.

9 Q. Did you have another boat before that?

10 A. Yes, I did.

11 Q. What kind of boat was that?

12 A. It was a 20-foot Eastport.

13 Q. Where did you keep that?

14 A. Barnstable Harbor.

15 Q. Do you have a mooring?

16 A. No, I have a slip there.

17 Q. Slip. And how long did you own your 20-foot  
18 Eastport?

19 A. I don't know, maybe six years or so.

20 Q. Was that a commercial venture?

21 A. No.

22 Q. Why did you own your 20-foot Eastport, just for  
23 your own pleasure?

24 A. It was pleasure and fishing, you know, I go  
25 back and forth to Sandy Neck a lot.

1 Q. I take it that you use your Herreschoff for your  
2 own pleasure?

3 A. Yes, I do.

4 Q. It's more of a, given that you only chartered it  
5 once, I would assume, correct me if I am wrong,  
6 that that's for your own personal use? It's just  
7 for your own pleasure; it's not really a commercial  
8 venture?

9 A. It's not a commercial venture. The license  
10 allows me to charter.

11 Q. Okay. In your -- other than the one charter in  
12 2007, any other charters with any of your boats?

13 A. Not any paying charters, no.

14 Q. Does the license, if you take somebody out in your  
15 boat that's not paying, the regulations regarding  
16 the captain's license don't apply, do they?

17 A. Well, it depends. Sometimes when I take,  
18 like, fly fishermen out, I don't charge them; but I  
19 am taking them out on the boat. And if they catch  
20 a fish that they don't want, for instance, they  
21 would give me the fish, you know. If it's a  
22 keeper-size fish, they will give me the fish.

23 Q. Now, getting back to capecodtoday, when -- you  
24 testified that when you write a story, you send it  
25 to Walter Brooks by e-mail?

1 A. Yes.

2 Q. What e-mail address do you send it to?

3 A. Wb@escape.com.

4 Q. Escape?

5 A. Yes.

6 Q. Is that -- what is escape.com?

7 A. I don't know. It's part of his business or  
8 something; I don't know. I send it to, you know,  
9 then I send it to this Maggie.

10 Q. You also send it to Maggie?

11 A. Yeah.

12 Q. So, is it your instructions when you write an  
13 article, e-mail it to wb@escape.com with a cc to  
14 Maggie?

15 A. Maggie, and now I send it to -- I send it to  
16 three people, generally, now.

17 Q. So wb@escape.com, and Maggie at what?

18 A. All I have to do is type, you know, Walter or  
19 Maggie, I can't recall, because when I originally  
20 put them in; but I think it's Maggie -- it may be  
21 maggie@capecodtoday.com.

22 Q. All written out, capecodtoday.com?

23 A. Yes. And Jim, now I send it to  
24 jim@capecodtoday.com, as well.

25 Q. Who is Jim?

1 A. He is the new managing editor.

2 Q. And Maggie, she is an editor, also?

3 A. She is an editor, also. I don't know their  
4 particular titles. They all have editor next to  
5 them in some manner or fashion.

6 Q. Walter Brooks is the publisher?

7 A. Correct.

8 Q. What e-mail address do you use to send your  
9 articles to Walter, Maggie, and Jim?

10 A. Investigation@comcast.net.

11 Q. That's your e-mail address for your private  
12 investigator's business?

13 A. Yes. I have had that forever, so --

14 Q. Do you have an e-mail address at capecodtoday.com?

15 A. No.

16 Q. Do you have an office at capecodtoday.com?

17 A. No.

18 MR. RATCLIFFE: Did he say no, or just  
19 shake his head?

20 THE WITNESS: I said no.

21 Q. Where are the offices of capecodtoday?

22 A. I think it's number, either 600 or 900 Route  
23 134 in Dennis.

24 Q. I take it you have been to the offices?

25 A. Uh-huh.

1 MR. RATCLIFFE: You have to say yes.

2 A. Yes.

3 Q. And Mr. Brooks has an office there?

4 A. Yes.

5 Q. And does Jim currently have an office there?

6 A. I don't know, to be honest with you.

7 Q. How about Maggie?

8 A. Yes, Maggie has an office there.

9 Q. Anybody else have an office there?

10 A. Julie Brooks, the President of the company.

11 Q. Anyone else?

12 A. There are some tech guys, but I don't know  
13 who they are.

14 Q. Okay. Julie Brooks?

15 A. Yes.

16 Q. Any relation to Walter Brooks?

17 A. Daughter-in-law.

18 Q. How do you know that she is the president of the  
19 company?

20 A. Because it's on her desk and everything when  
21 you go in there.

22 Q. President of capecodtoday?

23 A. I don't know if it's capecodtoday or ecape.

24 Q. Now, when you send an article -- and you are paid  
25 for that article; correct?

1 A. Correct.

2 Q. And is it by check?

3 A. Yes.

4 Q. What company pays you?

5 A. Um, let me check. (Perusing documents) I  
6 don't have it here. I believe it's escape.

7 Q. Escape?

8 A. Yes.

9 Q. Do you know what bank the check is drawn on?

10 A. Bank of America, I believe.

11 MR. RATCLIFFE: Can I have this marked as  
12 Plaintiff's Exhibit 1.

13 (PLAINTIFFS' EXHIBIT 1 MARKED FOR  
14 IDENTIFICATION)

15 Q. I am showing you what has been marked as  
16 Plaintiff's Exhibit 1; do you recognize that?

17 (EXAMINATION OF DOCUMENT)

18 MR. MORIN: Do you recognize it?

19 A. I recognize portions of it, yeah.

20 Q. What portions do you recognize?

21 A. Well, there is just some blank pages that I  
22 don't know what they are. I mean -- (Witness  
23 indicating).

24 Q. So, some of the pages -- actually, they are not  
25 entirely blank, there is some information. I



1 believe what happened is the way it paginated.

2 Peter Robbins, information about you?

3 A. Okay. I can see, uh-huh.

4 Q. So you recognize that this is --

5 A. Yes.

6 Q. -- this is the story that you wrote regarding --

7 A. Yes.

8 Q. --entitled, Barnstable Harbor: Filling In and  
9 Falling in?

10 A. Yes.

11 Q. In fact, it's got your, "Story and photos by Peter  
12 Robbins," that's your byline?

13 A. Yes, it is.

14 Q. Now, then at the end of the article, the part  
15 that's not paginated very well, is information  
16 about yourself?

17 A. Correct.

18 Q. It says, "Peter Robbins spent 25 years in law  
19 enforcement. He has testified in many  
20 jurisdictions as an expert witness in the forensic  
21 field. Traveling around the world lecturing on  
22 physical evidence and pioneering many new training  
23 programs. Past" and -- excuse me -- "past  
24 president and co-founder of the International  
25 Homicide Investigators Association, Peter has

1 received many awards and recognitions for his  
2 accomplishments in the forensic and law enforcement  
3 training fields and for initiatives in Multi-Agency  
4 Cooperative Efforts." Then the next page, "A  
5 native Cape Codder of many generations, avid  
6 photographer, licensed captain, and family man.  
7 Now retired, Peter and his wife have a private  
8 investigative and consulting business. Confronting  
9 and resolving difficult issues throughout the  
10 country and abroad. He can be reached at by e-mail  
11 here." Who wrote that bio?

12 A. I did.

13 Q. So, the 25 years in law enforcement was the 20  
14 years with the Barnstable County Sheriff's office,  
15 as well as the -- you're including the time that  
16 you were undercover with the, as the confidential  
17 informant with the Yarmouth Police Department?

18 A. That's correct, and Chatham.

19 Q. And Chatham. And what jurisdictions have you  
20 testified as an expert witness in the forensic  
21 field?

22 A. In Barnstable County, in Federal Court.

23 Q. Federal Court where?

24 A. Boston. Orleans District -- I mean, Orleans,  
25 Barnstable, Superior Court, District Court, federal

1 court.

2 Q. So, you have testified in Barnstable County,  
3 whether it's the Superior Court or the District  
4 Court; it's in Barnstable County?

5 A. Correct.

6 Q. And in Federal Court?

7 A. Correct.

8 Q. Any other jurisdictions that you testified as an  
9 expert witness?

10 A. I just don't recall right now. Not that I  
11 recall, no.

12 Q. So, the many jurisdictions would be Barnstable and  
13 the Federal District Court in Massachusetts?

14 A. There may have been others. I just don't  
15 recall.

16 Q. And in the Federal District Court in Massachusetts,  
17 what were you qualified to testify as an expert  
18 witness about?

19 A. I believe it was a fingerprint identification  
20 of a wanted federal person that had been -- got  
21 fingerprinted in Barnstable, I believe.

22 Q. Were you actually qualified as an expert witness?

23 A. Yes, I was.

24 Q. Where was that -- was that in Boston that you  
25 testified?

1 A. I believe each time you testify as an expert  
2 witness, you have to qualify, so --

3 Q. Now, was it in Boston that you qualified, the  
4 Federal District Court in Massachusetts, in Boston?

5 A. I believe so, yes.

6 Q. How many times have you testified as an expert  
7 witness in Federal District Court in Massachusetts?

8 A. I don't recall.

9 Q. More than once?

10 A. I don't recall.

11 Q. So, you have no memory at all?

12 A. No.

13 Q. At least once?

14 A. Yes.

15 Q. The one time you testified was regarding the  
16 fingerprints?

17 A. Yes.

18 Q. Do you recall approximately what year you  
19 testified?

20 A. No.

21 Q. Do you recall the name of the judge that qualified  
22 you as an expert?

23 A. No. I also testified in Federal Court in  
24 Boston as an expert in photography, I believe it  
25 was, too.

1 to about this matter that provided information to  
2 you about Mr. Dugas?

3 A. No. I just can't remember who the other  
4 people were.

5 Q. It was Ms. Canedy that told you that she believed  
6 there was some sort of a hidden agenda?

7 A. Yes.

8 Q. Did she tell you what that agenda was?

9 A. No, she did not tell me what the agenda was.

10 Q. She said there was a hidden agenda because of  
11 Mr. Dugas's connection with another individual?

12 A. She suggested that I look, that I investigate  
13 the connection between Mr. Bornstein and Mr. Dugas.

14 Q. Did she say anything further than that?

15 A. I don't recall. I mean, I am sure I made  
16 notes on it.

17 Q. Now, in the Affidavit you say, in paragraph seven,  
18 that you also received a substantial -- strike  
19 that. "In addition to the comments to my posts, I  
20 also receive a substantial number of private  
21 e-mails that provide me with information or sources  
22 of information on the matters I am writing about,"  
23 the matters -- or excuse me -- "or other matters of  
24 public concern." Is that correct?

25 A. Correct.

1 Q. Did you receive any e-mails from any individuals  
2 about -- that led you to write this story about  
3 Barnstable Harbor: Filling in and Falling in?

4 A. To the best of my knowledge, no, but I don't  
5 recall.

6 Q. Now, did you go to any of the public hearings?

7 A. No.

8 Q. When I say public hearings, the public hearings  
9 regarding the Barnstable Harbor dredging?

10 A. No.

11 Q. Why not?

12 A. Because, for the amount of money I get paid  
13 for writing an article, I put enough time into it  
14 without having to go out and put more time into it.

15 Q. So, I mean, in determining whether or not you are  
16 going to further investigate something that you are  
17 going to write about, you factor in how much time  
18 it's going to take and that you're only making \$100  
19 for these --

20 A. 75.

21 Q. 75; correct?

22 A. Uh-huh.

23 MR. RATCLIFFE: You have to say yes, sir.

24 A. Yes.

25 Q. So, you are sure at the time you were writing this

1 first article on March 11th, that you were only  
2 getting \$75 per story?

3 A. Yes. With photographs.

4 Q. With photographs. Probably doesn't work out to too  
5 much an hour, does it?

6 A. No, it doesn't.

7 MR. MORIN: Don't go there.

8 Q. So, you didn't want to waste your time going to  
9 the -- sitting through these hearings if you are  
10 only getting \$75 for your story?

11 A. No. I felt that I had enough information to  
12 write the story that I wrote.

13 Q. Although you never did find out what the hidden  
14 agenda was?

15 A. I did not.

16 Q. And you never checked to make sure that the, quote,  
17 litigation that you refer to in your -- strike  
18 that -- the pending litigation that you refer to in  
19 your story was actually pending at the time you  
20 wrote the story?

21 A. I was told it was pending at the time.

22 Q. That was by Ms. Canedy?

23 A. Correct.

24 Q. But you never actually checked the docket on the,  
25 quote, pending litigation, to make sure that it was

1           actually pending, did you?

2           A.     I talked to someone at DEP. They said that  
3           it was still pending, that there were talks going  
4           on.

5           Q.     Now, why wouldn't you just go, if it was pending  
6           litigation, why wouldn't you just go to the  
7           Barnstable Superior Court and put it on the screen  
8           to see if the case was actually pending?

9           A.     I thought I had enough information for what I  
10          was writing.

11          Q.     Well, you went to the Barnstable Superior Court to  
12          find out about Mr. Dugas, didn't you?

13          A.     Uh-huh.

14                         MR. RATCLIFFE: You have to say yes.

15          A.     Yes.

16          Q.     And while you were there getting the information  
17          about Mr. Dugas so you could draw the conclusion  
18          that he was a shit-stirring individual, why didn't  
19          you just plug in the screen there to determine if  
20          the litigation that your story is about was  
21          actually pending?

22          A.     Because it was general knowledge. His  
23          reputation was general knowledge in the Village.

24          Q.     I am not talking about his reputation. I am  
25          talking about your due diligence in determining



1 that the litigation that you are writing your story  
2 about, that the pending litigation involving  
3 Mr. Dugas and his trying to stop the dredging of  
4 Barnstable Harbor, why didn't you just, when you  
5 went to the Superior Court to find out information  
6 regarding the general reputation of Joe Dugas, why  
7 didn't you just put in that computer screen this  
8 case to determine if it was actually pending?

9 A. Well, number one, I had the copy of the  
10 litigation in my hand; and number two, I believe  
11 DEP said there were talks going on.

12 Q. So, you didn't take the two minutes extra that it  
13 would have determined to actually find out from the  
14 computer screen that the litigation was actually  
15 pending?

16 A. No.

17 Q. Did you actually go to the Superior Court before  
18 you wrote this article to put into the computer  
19 screen to find out information that Mr. Dugas  
20 had --

21 A. I couldn't even tell you the date that I went  
22 to Superior Court. I went to -- I am in Superior  
23 Court often.

24 MR. MORIN: Richard, I think he answered  
25 that. You asked him before if he checked the

1 docket for Dugas before he wrote the story.

2 Q. Is that your memory of your testimony?

3 A. Yes.

4 Q. Did you actually read the Complaint that's the  
5 subject of the so-called litigation was about?

6 A. I believe I did, yes.

7 Q. What is your memory of it?

8 A. I think I have answered that once before. I  
9 don't recall. I just recall that it had a lot of  
10 information on it about DEP and signatures, names  
11 of people that have filed the Complaint or  
12 whatever.

13 Q. Now, in your Affidavit, at page 4, paragraph 13,  
14 you put that, "The effect of the plaintiffs'  
15 actions was that the conservation-related  
16 permitting for the dredging project was delayed  
17 from January, 2007, to March, 2008."

18 A. Correct.

19 Q. How did you determine that?

20 A. I believe I got that information from Ann  
21 Canedy.

22 Q. Was that before you wrote the story?

23 A. I don't recall.

24 Q. Now, what did -- what effect did the delay in  
25 dredging Barnstable Harbor have on you, personally?

1 A. I am concerned about the general conditions  
2 of the harbor. I use it daily, sometimes. I  
3 transport people to Sandy Neck. I take people out  
4 fishing, and I am on the water as frequently as I  
5 possibly can be. So, I am very concerned about the  
6 condition of the harbor.

7 Q. How did it affect you, personally, the delay in the  
8 dredging?

9 A. It made me careful as I could be at low tide  
10 so I wouldn't run aground again. Actually, I try  
11 to avoid low tide at the harbor as much as I can  
12 now.

13 Q. But it didn't have such an effect on you that you  
14 actually went to any public hearings regarding the  
15 dredging?

16 A. Say that again, sir?

17 Q. It wasn't of such a substantial effect on you that  
18 you actually took the time to go to a hearing  
19 regarding the dredging of the harbor?

20 A. No. I felt there was ample people  
21 representing the best interests of the harbor.

22 Q. How did you draw that conclusion?

23 A. How did I draw the conclusion that there were  
24 people representing the best interests of the  
25 harbor?

1 Q. There were ample people representing the best  
2 interests of the harbor?

3 A. Well, when the precinct councilor is trying  
4 to get it dredged, I am sure the people that she is  
5 dealing with within the Town and her supporters are  
6 working with her to bring it to a successful  
7 conclusion.

8 Q. But this wasn't something that you had followed,  
9 kept an eye on, or were following up on until a few  
10 days before you filed this article, which has been  
11 marked as Exhibit Number 1; is that correct?

12 A. That's correct.

13 Q. What was your goal in writing this article, Exhibit  
14 Number 1?

15 A. To let the people know that the harbor  
16 probably wasn't going to get dredged this year  
17 again.

18 Q. And that someone was responsible for that; correct?

19 A. Well, in my opinion, there was someone  
20 responsible for another delay, yes.

21 Q. Who was that?

22 A. Well, I thought that Mr. Dugas and the people  
23 that he was working with had an effect on it, but I  
24 was encouraging people to get involved with  
25 speaking out about it, too.

1 Q. Now, how come you call it -- what did you mean by  
2 this in your article, which has been marked as  
3 Exhibit Number 1, you refer to it as an N-I-M-B-Y,  
4 capitalized, frivolous, malicious action?

5 A. I think it speaks for itself. It's my  
6 opinion.

7 Q. What are the facts that went into the matrix of you  
8 reaching that opinion, that the action was  
9 frivolous and malicious?

10 A. Just my opinion.

11 Q. So, there were no facts that went into the matrix  
12 of you drawing the conclusion that the action was  
13 frivolous or malicious?

14 A. I think it was frivolous and malicious;  
15 that's my opinion, and I wrote it.

16 Q. But you have no facts upon which to base that  
17 conclusion?

18 A. Opinions are that, opinions.

19 Q. So, it's your testimony that, as a journalist,  
20 someone that's publishing articles for the public,  
21 that you can refer to the actions as someone using  
22 the terms frivolous and malicious and have no facts  
23 upon which to base that as long as you say it's  
24 your opinion?

25 A. Number one, I am not a journalist. I am a

1 blogger, and as a blogger, I wrote that, and that's  
2 that.

3 Q. So, to answer my question, is it your testimony  
4 that you had no facts upon which to base your  
5 opinion, which is published, in your -- whether  
6 it's called a blog or a story, or it was published  
7 for the public to read, that the actions of  
8 Mr. Dugas were frivolous and malicious; you don't  
9 have to have any facts upon which to base that  
10 opinion?

11 A. It was my opinion that the legal action that  
12 was filed was frivolous. There should have been  
13 more working with the Town and working with the  
14 people that had an interest in having the harbor  
15 dredged, rather than to put forth a document or an  
16 action that would cause the stalling of the  
17 dredging once again.

18 Q. So, I guess my question to you is: What facts did  
19 you base your conclusion?

20 A. I think I answered it. I answered that.

21 Q. There are no facts that you have testified to here  
22 today?

23 A. I testified.

24 Q. That I am aware of; if there are, correct me. But  
25 are there any facts upon which you based your

1 conclusion that the actions were frivolous and  
2 malicious?

3 A. Based on talking to Ann Canedy and reviewing  
4 the suit, the legal papers that I had, and the  
5 previous history with dredging, I believe that I  
6 voiced in my opinion.

7 Q. So, talking with Ann Canedy -- so, other than  
8 talking to Ann Canedy, reviewing the legal papers,  
9 which was the document that you obtained from DEP  
10 or Conservation?

11 A. Conservation.

12 Q. And the history of dredging, any other facts that  
13 you --

14 A. -- formed that opinion?

15 Q. Let me ask the question. Any other facts that you  
16 considered in reaching the conclusion that the  
17 actions of Mr. Dugas were frivolous and malicious?

18 A. No.

19 Q. What -- I know we have gone over this, but I just  
20 want to make sure the record is clear: What facts  
21 did Ann Canedy give you that led you to the  
22 conclusion that the actions of Mr. Dugas were  
23 frivolous and malicious?

24 A. Ann Canedy gave me information relative to it  
25 slowing the process down.

1 Q. Anything else?

2 A. And they weren't sure when they would be able  
3 to get a window of opportunity to dredge it again.

4 Q. Anything else?

5 A. Anything else that she told me was off the  
6 record.

7 Q. Well, we are on the record here.

8 A. Good.

9 Q. What else did she tell you?

10 A. She, like I previously stated, told me to  
11 check into the connection between Mr. Dugas and  
12 Mr. Bornstein. She said that I should go talk to  
13 some people around town, and directed me toward  
14 talking to an individual -- who I can't recall the  
15 name right now; I never did talk to them -- about a  
16 matter at the Coast Guard Museum. She -- I don't  
17 know, this was 75 articles ago; I am trying to  
18 remember. I just don't recall other conversations  
19 that I had with her. She mentioned something about  
20 Freezer Point, and I should check into it, dredge  
21 spoils. I just don't recall. They are probably in  
22 my notes.

23 Q. You probably still have your notes?

24 A. I am sure I might. You know, I just, like I  
25 said, this was probably 75 articles ago.



1 Q. Now, what, in reviewing the legal papers, led you,  
2 what facts in the legal papers, in the papers that  
3 you reviewed, led you to the conclusion that the  
4 action was frivolous and malicious?

5 A. I think we covered this several times.

6 Q. I am asking you now -- I asked you about Ann  
7 Canedy. What facts in the legal papers that you  
8 reviewed led you to the conclusion that the action  
9 was frivolous and malicious?

10 A. I was voicing an opinion.

11 Q. So, there were no facts in the legal papers which  
12 led you to the conclusion that the action of  
13 Mr. Dugas was --

14 A. The fact that the suit had been stalled and  
15 probably other things that I would have to review  
16 from the document, itself.

17 Q. So, basically, you drew the conclusion, and correct  
18 me if I am wrong, because the action of filing the  
19 appeal that Mr. Dugas filed, you drew the  
20 conclusion that it slowed down the dredging  
21 process; correct?

22 A. I was told it slowed down the dredging  
23 process.

24 Q. Because it slowed down the dredging process, that  
25 alone led to the conclusion that it was frivolous

1 and malicious?

2 A. Like I said, I would have to review the  
3 documents or notes that I have got to --

4 Q. But as you sit here today, without reviewing your  
5 notes, you know of no other reason, I am not  
6 hearing anything else that you are telling me,  
7 other than it slowed down the dredging process, nad  
8 that's why you concluded that the actions of  
9 Mr. Dugas was frivolous and malicious?

10 A. Without reviewing my notes, yes.

11 Q. Now, you received a number of posts regarding this  
12 story that's been marked as Exhibit Number 1?

13 MR. MORIN: Are you talking about the  
14 comments?

15 MR. RATCLIFFE: Comments, yes.

16 Q. Eight comments?

17 THE WITNESS: I am just thinking about  
18 your last question, the one before. Okay; go  
19 ahead.

20 A. Yes, I see the page.

21 Q. Now, this individual, noggin; do you know who that  
22 is?

23 A. I do not.

24 Q. Now, after this -- did you ever have any  
25 conversations with Mr. Brooks regarding the article

1           that's been admitted as Exhibit Number 1?

2           A.     Ever?

3                     MR. MORIN:   Time?

4                     MR. RATCLIFFE:  After it was published.

5           A.     Yeah, I don't know the dates, but yes.

6           Q.     Well, let's start this:  Before the article was  
7                   published, before Plaintiffs' Exhibit Number 1 was  
8                   published, did you have articles -- excuse me --  
9                   did you have conversations with Mr. Brooks?

10          A.     No.

11          Q.     Regarding Exhibit Number 1?  I just want to back up  
12                  for a second.  You said something, that you are not  
13                  a blogger, not a journalist; how do you distinguish  
14                  yourself as a blogger, not a journalist?

15          A.     I write what I want.

16          Q.     Without regard to whether it's factually correct?

17                     MR. MORIN:  Objection.

18                     MR. RATCLIFFE:  You can answer.

19                     MR. MORIN:  Answer.

20          A.     I write what I want.  You know, I write my  
21                  opinion.

22          Q.     The question is without regard to whether or not  
23                  it's factually correct, yes or no?

24          A.     No.

25          Q.     Well then, how do you differ from a journalist?

1 Journalists are supposed to write what is factually  
2 correct; as a blogger, you are paid for what you  
3 write?

4 A. Yes.

5 Q. Why are you any different than a journalist?

6 A. Because I don't get assigned things, number  
7 one. I write what I write, what I want, when I  
8 want.

9 Q. The first thing, you have no assignments; what  
10 else? You can't just publish -- you can't just  
11 post your story to capecodtoday without first  
12 having it approved by your editor; correct?

13 A. No, it goes to them first.

14 Q. For review?

15 A. Yeah.

16 Q. Just like a journalist, the story goes to the  
17 editor for review?

18 A. That's correct.

19 Q. So, other than you choosing what you want to write  
20 about, you are aware of no distinctions between you  
21 and a journalist?

22 A. Yeah, I write things that are of personal  
23 interest to me.

24 Q. Anything else that distinguishes you from a  
25 journalist?

1 A. I write when I want, what I want, and things  
2 that are of personal interest.

3 Q. But if you don't write something, you don't get  
4 paid?

5 A. That's correct.

6 Q. So, you would be more akin to a freelance  
7 journalist, rather than a journalist who is  
8 actually on staff; correct?

9 A. No. I don't consider myself a journalist. I  
10 never had any journalistic training. I have never  
11 had any, I mean, that would be a far reach for me  
12 to consider myself a journalist.

13 Q. A freelance journalist is someone who writes what  
14 they want, when they want?

15 A. I don't know; is it?

16 Q. You never heard the term freelance journalist?

17 A. I have heard it, but I couldn't tell you what  
18 it means.

19 Q. You have no idea what a freelance journalist is?

20 A. No.

21 MR. RATCLIFFE: You have to say yes or  
22 no.

23 A. No; I said it.

24 Q. After the story was published, this Exhibit Number  
25 1, did you engage in conversations with Mr. Brooks

1 about the story?

2 A. Yes.

3 Q. When was the first conversation that you had with  
4 Mr. Brooks about --

5 A. I do not recall.

6 Q. Do you recall if it was before or after the  
7 litigation was filed, the litigation meaning the  
8 Complaint in this matter that's filed in Barnstable  
9 County Superior Court?

10 A. Oh, it was before that.

11 Q. Was it in response to the letter that was sent by  
12 Mr. Revere?

13 A. I believe so, yes, or a phone call, I  
14 believe. It was either a letter or a phone call.

15 Q. Do you recall any discussions with Mr. Brooks at  
16 that first conversation that you had with him?

17 A. I believe there was something relative to  
18 someone being upset about comments made by people  
19 making comments, and he said, you know, "Do you  
20 have any objection if I take them down?" I said,  
21 "You're the editor, you do what you want. You  
22 publish it."

23 Q. Was that the comments by noggin, the post comments?

24 A. I am sure it probably was. I think there was  
25 a conversation between Mr. Brooks and Mr. Revere

1 expressing some concern over what was said in that,  
2 and Mr. Brooks asked me if it was all right to take  
3 it down. I said, "I don't care; take it down."

4 Q. What is the next conversation you recall having  
5 with Mr. Brooks regarding this story or any of the  
6 stories concerning Barnstable Harbor that postdated  
7 it? When I say, "This story," I mean Exhibit  
8 Number 1.

9 A. I don't remember which came first, whether it  
10 was a letter that was received from Mr. Revere or a  
11 phone call, and I think that was the next time I  
12 talked to him about it.

13 Q. Tell us what was discussed?

14 A. To the best of my memory, it was just that he  
15 received a letter, you know, I think he called it a  
16 cease and desist order, or something to that  
17 effect.

18 Q. Did he give you a copy of the letter?

19 A. I finally did obtain one, yes.

20 Q. Did you have any discussions about what action to  
21 take or not to take as a result of the letter that  
22 Mr. Brooks received from Mr. Revere?

23 A. No.

24 Q. Any other conversations with Mr. Brooks regarding  
25 the articles?

1           A.    I am sure there have been.  I don't know.  I  
2           talk to him, you know, a couple of times a week so,  
3           I mean, specifically about this, no.  I mean, I  
4           don't think we have had a great deal of discussion  
5           about it.  We talked about, at one point in time,  
6           that he was going to cover the legal expenses if  
7           anything ever developed from it.  But like I said,  
8           this is like 75 articles ago, probably.  So, I  
9           mean, I probably talked to him about a million  
10          articles since then.

11         Q.    Now, in writing this article, were you attempting  
12           to influence the outcome of any government  
13           proceeding?

14         A.    I was attempting to get some feedback from  
15           the public, and, you know, I was hopeful that the  
16           article would bring it to light, because nobody  
17           seemed to know much about it, and maybe we could  
18           bring it to a conclusion somehow.

19         Q.    So, specifically, my question was:  Were you  
20           attempting to influence the outcome of some  
21           government proceeding?

22         A.    No.  I don't think that was my intent, no.  
23           If someone's response or interest in it generated  
24           that, did that, and the harbor could get dredged  
25           sooner, well, that would be wonderful.



1 Q. I take it you weren't attempting to obtain review  
2 from a governmental agency by publishing Exhibit  
3 Number 1, the article that's been admitted as  
4 Exhibit Number 1?

5 A. No, but if that happened, that would have  
6 been wonderful.

7 Q. Were you seeking, were you trying to seek redress  
8 from the government on your own behalf as a citizen  
9 in writing the article that's been admitted as  
10 Exhibit Number 1?

11 MR. MORIN: I am going to object to that  
12 question. It seeks a legal conclusion.

13 MR. RATCLIFFE: Are you instructing him  
14 not to answer?

15 MR. MORIN: Uh-huh.

16 MR. RATCLIFFE: Because it seeks a legal  
17 conclusion?

18 MR. MORIN: Yeah. There is a legal, that  
19 constitutes a legal definition. I think you have  
20 asked the question that you want, and I think you  
21 got the answer that you want.

22 MR. RATCLIFFE: All right. I mean, I am  
23 not -- I am not agreeing that's a proper objection.

24 MR. MORIN: Okay.

25 MR. RATCLIFFE: We will leave that for

1 another day.

2 (SO NOTED)

3 Q. Now, when you said you were --

4 MR. RATCLIFFE: This is going to be  
5 Number 4 -- off the record.

6 THE VIDEOGRAPHER: It is 2:32 p.m., and  
7 we are off the record.

8 (BREAK TAKEN AT 2:32 TO 2:40 P.M.)

9 THE VIDEOGRAPHER: It is 2:40 p.m., and  
10 we are back on the record.

11 MR. RATCLIFFE: I am showing you what has  
12 been marked as Exhibit 4. Do you have a copy of  
13 that -- actually, this has got writing on it. Can  
14 we go off the record a second?

15 THE VIDEOGRAPHER: It is 2:41 p.m. We  
16 are off the record.

17 (PAUSE/PLAINTIFFS' EXHIBIT 4 MARKED FOR  
18 IDENTIFICATION)

19 THE VIDEOGRAPHER: It is 2:42 p.m., and  
20 we are back on the record.

21 Q. Showing you what has been marked as Plaintiffs'  
22 Exhibit number 4, and ask you if you recognize  
23 that?

24 (EXAMINATION OF DOCUMENT)

25 A. Yes, I do.

1 Q. What is Exhibit Number 4?

2 A. It's an article from my blog saying, "Window  
3 of opportunity passes for Barnstable Harbor  
4 dredging project."

5 Q. This is a follow-up to the article that you  
6 published on the 11th of March --

7 A. Correct.

8 Q. -- 2008? It says on the, it says, "Window of  
9 opportunity passes for Barnstable Harbor dredging  
10 project," and then you have, "Deadline was March  
11 1st -- there will be no dredging this year." Where  
12 did you get that information that the deadline was  
13 March 1st?

14 A. Would have been from Rob Gatewood.

15 Q. Who is Rob Gatewood?

16 A. He is Conservation.

17 Q. Conservation what?

18 A. I don't know what his title is. He works for  
19 Conservation.

20 Q. Now, between the publishing of the first article,  
21 which was on the 11th, and the publishing of the  
22 second article, which was on the 14th, which is  
23 Exhibit Number 4, did you engage in conversations  
24 with Ann Canedy?

25 A. I probably did, yes. I don't recall. I

1 don't recall the dates of the conversations.

2 Q. Well, did you get any positive feedback from Ann  
3 Canedy regarding Exhibit Number 1?

4 MR. MORIN: Can you clarify that? I  
5 don't even know what it means.

6 MR. RATCLIFFE: If he doesn't know what  
7 it means --

8 MR. MORIN: All right. Do you know what  
9 that means?

10 THE WITNESS: No, I don't. That's why I  
11 shook my head, I don't.

12 Q. Well, did Ann Canedy tell you that she liked the  
13 article, that it was a good job?

14 A. I don't recall. I just don't recall.

15 Q. Did you ever get any e-mails from Ann Canedy?

16 A. I don't think so.

17 Q. Did you get any additional information from Ann  
18 Canedy that found its way into the second article,  
19 which has been marked as Exhibit Number 4?

20 A. Could you repeat that?

21 (PENDING QUESTION READ BACK)

22 A. I don't recall.

23 Q. Did you ever speak with or communicate with Ann  
24 Canedy about any other subject, other than the  
25 dredging of Barnstable Harbor?

1 A. You know, I would have to look. I would have  
2 to refer back to my notes.

3 Q. Now, this article, the second article, you were  
4 paid \$75 for this article, also?

5 A. I believe so, yes.

6 Q. And you filed this article by sending it to Walter  
7 Brooks at wb@escape.com?

8 A. I believe that's the e-mail address, yes.

9 Q. I believe you sent a copy to the editor?

10 A. Yeah, I always send a copy to Maggie.

11 Q. Do you recall if there was any edits to the article  
12 before it was published?

13 A. I don't recall.

14 Q. I take it that you didn't take the picture that was  
15 the aerial image of Barnstable Harbor circa 1934?

16 A. No, I wish I had.

17 Q. Where did you get that photograph?

18 A. I got that from -- it was given to me a few  
19 years ago by someone. I can't recall. I collect a  
20 lot of old photographs and things. It was somebody  
21 from the Village.

22 Q. Now, so in the article you said, "No dredging this  
23 year, according to a message returned from Rob  
24 Gatewood of Barnstable Conservation."

25 A. Correct.

1 Q. And was that a message that was left on a voice  
2 mail message?

3 A. Yes, my telephone.

4 Q. Did you actually speak with Ron (sic) Gatewood?

5 A. Rob Gatewood.

6 Q. Rob Gatewood.

7 A. I have spoken with him on a few occasions.

8 Q. Did you speak with him regarding the deadline  
9 passing?

10 A. I believe I did.

11 Q. He, specifically, although it's not attributed to  
12 him, he specifically told you that the deadline for  
13 dredging, the dredge scheduling for the Barnstable  
14 Harbor was March 1st?

15 A. To the best of my memory, yes.

16 Q. "In talking to one of the requesters (who requested  
17 anonymity), listed on the action filed by Attorney  
18 Paul Revere, III, of Hyannis," you quote somebody  
19 as saying, "I had no knowledge that a suit was  
20 being filed against the town. I would never sue  
21 the town, I was shocked! There was never any talk  
22 of litigation." The person continued, quote, "I am  
23 not sure that everyone on that list knows their  
24 names are on it," end quote.

25 A. Correct.

1 Q. Do you know who that person is?

2 A. I do, and I am -- I am horrible with names.  
3 I know I have it in my notes. If I find my notes,  
4 I know I will have it.

5 Q. You list the names of the people who appealed the,  
6 or you list the names of the people who are  
7 allegedly connected with the litigation in Exhibit  
8 Number 1; do you know that?

9 A. Yes, I do.

10 Q. Would that refresh your recollection as to who told  
11 you they had no knowledge of litigation being  
12 filed?

13 A. Judy Cahoon. I believe it was Judy Cahoon.  
14 But if I can find my notes, I know it will be in my  
15 notes.

16 Q. And you end the article -- not the article, in the  
17 article it also states, in Exhibit Number 4, you  
18 say, "Of the 29 abutters listed on the required  
19 notification records at Barnstable Town Hall for  
20 the dredging project, only three appeared on the  
21 list of the action filed." What do you mean by  
22 that?

23 A. Well, there must have been 29 abutters.

24 Q. Abutters to the harbor?

25 A. To the harbor.

1 Q. So, there was actually -- you actually looked at a  
2 record regarding --

3 A. I must have.

4 Q. Of those 29, three were on the list of the --

5 A. -- action filed.

6 MR. RATCLIFFE: The next one.

7 (PLAINTIFFS' EXHIBIT 5 MARKED FOR  
8 IDENTIFICATION)

9 Q. I am showing you what has been marked as Exhibit  
10 Number 5, and ask you if you recognize that?

11 (EXAMINATION OF DOCUMENT)

12 A. Yes, I do.

13 Q. What is that?

14 A. It's an article that appeared on my blog  
15 entitled, Barnstable Harbor Problems Are Greater  
16 Than Anticipated.

17 Q. Did you write this article?

18 A. I did.

19 Q. Did anybody assist you in writing this article?

20 A. No.

21 Q. I don't think I asked you on Exhibit Number 4, the  
22 March 14th article, did anybody assist you in  
23 writing the March 14th article?

24 A. No.

25 Q. So, other than, you wrote these articles yourself,



1 Q. Well, were you ever interviewed by the media?

2 A. Yes.

3 Q. When?

4 A. Don't recall the date.

5 Q. How many times?

6 A. Hannity's America was one. As it relates to  
7 this particular matter?

8 Q. No. As it relates to your work for capecodtoday.

9 A. I think I did an interview with, over the  
10 phone, with some Washington, D.C., group. I  
11 couldn't tell you the dates.

12 Q. Anything else?

13 A. Not that I recall.

14 Q. Were you on FOX News Today at one time?

15 A. I was on Hannity's America.

16 Q. Is that on FOX?

17 A. FOX, yes.

18 Q. That was published -- your appearance on there was  
19 with Mr. Brooks; right?

20 A. Correct.

21 Q. And that was published on the capecodtoday website;  
22 correct?

23 A. I believe so, yes.

24 (PLAINTIFFS' EXHIBIT 7 MARKED FOR  
25 IDENTIFICATION)

1 Q. Have you seen this capecodtoday posting regarding  
2 your appearance on Hannity's America?

3 (EXAMINATION OF DOCUMENT)

4 A. I believe I had seen it at one point in time.

5 Q. You are referred to as a capecodtoday reporter, are  
6 you not?

7 A. I am.

8 Q. Did you ever say to Mr. Brooks, Mr. Brooks, you  
9 referred to me as a capecodtoday reporter on our  
10 capecodtoday in this posting; I am not a reporter;  
11 I am a blogger?

12 A. I was actually flattered by it, but no, I  
13 never said anything.

14 Q. So, at least in the eyes of capecodtoday, to your  
15 knowledge, you're a reporter, not a blogger?

16 A. Well, I don't know. I am a blogger. I mean,  
17 I have a blog. If somebody referred to me as a  
18 reporter, that was their opinion.

19 Q. As we sit here today, you really can't define what  
20 the difference between what a reporter and a  
21 blogger is?

22 A. No.

23 Q. Is that Mr. Brooks that's sitting next to you?

24 A. Sure is.

25 Q. Were you paid for that appearance on Hannity's

1 America?

2 A. No, they don't pay.

3 Q. What were the circumstances of you appearing on  
4 that show?

5 A. There was a photograph that was taken after a  
6 Figowi race of Ted Kennedy's boat in Hyannisport  
7 Harbor, and it had an oil slick coming out of it  
8 because they had broken an oil line. It was all  
9 pumped from the bilge into Hyannisport Harbor.

10 Q. You wrote about that on your blog?

11 A. Oh, I didn't write about it.

12 Q. How come you ended up on Hannity's America?

13 A. Walter asked me to go with him because I got  
14 ahold of the picture.

15 Q. Prior to going on Hannity's America, had you had  
16 any communication with them directly about what you  
17 were going to say?

18 A. No.

19 Q. Is that the only time you have ever been on  
20 Hannity's America?

21 A. Yes.

22 Q. When you -- is the only e-mail address when you use  
23 when you are communicating with -- sent in your  
24 e-mails, send in the postings to capecodtoday, is  
25 it the investigations@comcast.net?

1 A. Yes.

2 Q. Do you use any other e-mail addresses?

3 A. I have one for eBay.

4 Q. That's just when you purchase something on eBay?

5 A. Yeah.

6 Q. Doesn't have anything to do with your reporting or  
7 blogging or anything?

8 A. No. Nope.

9 Q. Are you paid for any other photographic or writing  
10 endeavors, other than the material on capecodtoday?

11 A. Have I been, or do I?

12 Q. Have you been?

13 A. Yes, I was paid recently for photographs I  
14 took in Wellfleet.

15 Q. By whom?

16 A. Miami Herald.

17 Q. What were they photographs of?

18 A. Blasch House. It's a story that I have been  
19 writing down there for some time now.

20 Q. Is this -- what is the Blasch House about?

21 A. It's the big old billboard house that there  
22 has been so much publicity about. It's on the  
23 National Seashore property, they tore it down, and  
24 they are going to build a big Mc-Mansion there.

25 Q. You sold the photographs to the Miami Herald?

1 A. Yes.

2 Q. Any other photographic or writing, journalistic  
3 endeavors, which you have been paid for?

4 A. No.

5 Q. Have those photographs been published in the Miami  
6 Herald, to your knowledge?

7 A. Yes, they have.

8 Q. And how did you get the Kennedy picture that was  
9 referred to on Hannity's America?

10 A. It was given to me by one of my sources.

11 Q. Who is that?

12 A. I am not going to reveal that.

13 Q. On what basis?

14 A. Because I promised him that I would not.

15 Q. Are you alleging some sort of a news-gatherer's  
16 privilege?

17 A. No. It was a friend. I just told him that I  
18 would never reveal him. He happens to have a boat  
19 there, as well.

20 Q. How did it come to be that you got a 25, actually,  
21 more than 25, 33 percent raise by the capecodtoday?

22 A. Conversation that I had with him.

23 Q. With who?

24 A. Walter Brooks.

25 Q. What was the conversation?

1 A. That I thought that \$75 was a little  
2 ridiculous after some of the cases on the lower  
3 Cape were costing me a hundred bucks to put  
4 together.

5 Q. So, he agreed to give you a 33 percent raise?

6 A. Yes. If that's what the percentage is, which  
7 is about a break-even point.

8 Q. How do you support yourself?

9 A. I get by. I just get by. My wife is in  
10 charge of the finances, and she is pretty good at  
11 it.

12 Q. Are you still working and doing the investigation  
13 business?

14 A. From time to time, yes.

15 Q. Most of your time spent doing your reporting?

16 A. Yes, but I gladly give it up when I get  
17 retained by an attorney for a case.

18 Q. Do you perform any other tasks for capecodtoday  
19 besides writing and submitting articles and  
20 photographs?

21 A. No.

22 Q. And I believe you testified to this before, but you  
23 never met Joe Dugas before seeing him here today?

24 A. Personally, no, I don't think I ever have. I  
25 have known Joe for years, I mean, I have waved in

1 the Village, you know. I know who he is. I have  
2 seen him at the post office.

3 Q. Do you have any insurance through capecodtoday  
4 regarding if you are ever sued for libel like you  
5 are being sued here?

6 A. Personally?

7 Q. If there is an insurance policy?

8 A. I don't know.

9 Q. Did you ever ask Mr. Brooks if there is any sort of  
10 insurance policy?

11 A. I don't think I asked him. I think he told  
12 me once upon a time that they had insurance of some  
13 sort, but I don't know anything about it. I don't  
14 know what it is or --

15 Q. So, I take it, when you received the lawsuit, you  
16 obviously spoke to Mr. Brooks about it since he  
17 arranged for you to have counsel?

18 A. Yes.

19 Q. Did you talk about insurance then?

20 A. We may have discussed it had then. I just, I  
21 mean, I don't know the particulars of what they  
22 have for insurance.

23 Q. Did you get any of the information for any of the  
24 articles concerning Barnstable Harbor from Peter  
25 Jason?

1           A.    I don't recall.  I mean, I know Peter.  I see  
2           him.  I talk to him, you know.

3   Q.   Who is Peter?

4           A.    He is a local fisherman, shell fisherman.

5   Q.   So, you said you talked to fishermen, you talked to  
6           people, but you don't recall if Peter Jason was one  
7           of the people you spoke to?

8           A.    No, I don't.

9   Q.   Now, you testified that The Millway Four was  
10          concerned about the dredge spoils being left on  
11          Millway Beach; are you aware if that was the  
12          objection that Mr. Dugas had to the dredging?

13          A.    I have no idea.  That was probably 20 years  
14          ago or more.  I can't recall.  Maybe Mr. Dugas  
15          does.  I just don't recall.

16   Q.   Now, I believe we have gone over this, but --

17          A.    You asked me once before -- if I could  
18          clarify one thing -- if I recognized any of the  
19          bloggers that were on there.

20   Q.   Correct.

21          A.    There was one that I did recognize after I  
22          looked at it a second time.

23   Q.   Who is that?

24          A.    Jeff.

25   Q.   Who is Jeff?



1 A. Jeff, he used to also blog for capecodtoday.  
2 Jeff Blanchard.

3 Q. Are you aware if Mr. Brooks communicated to  
4 Mr. Revere that you had possessed other disparaging  
5 information regarding Joseph Dugas that you didn't  
6 publish in your columns?

7 A. No, I am not aware of that.

8 Q. Is that true, not that he said that to him, but  
9 that you have other disparaging information  
10 regarding Joseph Dugas that you didn't publish in  
11 your columns?

12 A. Without reviewing my notes, I can't tell you.  
13 There was a lot of conversations that I had with  
14 people, so --

15 Q. You took notes on these conversations?

16 A. Sometimes I did. Sometimes I didn't. You  
17 know, this was, you know, like I said, 75 articles  
18 ago. So, I don't keep everything.

19 Q. But, obviously, this is the only one that there is  
20 litigation that you have been sued about; correct?

21 A. Yes.

22 Q. After being sued, did you go back over your notes  
23 to --

24 A. I haven't, as of yet.

25 Q. -- to try and refresh your recollection?

1 A. Huh?

2 Q. You have not done that?

3 A. No, I have not, as yet.

4 Q. Since being sued, you haven't thrown any of those  
5 notes away? Since the lawsuit was filed, you  
6 haven't thrown any of those notes away?

7 A. No. Whatever is gone is gone.

8 Q. In the article that you published where you list  
9 the 18 people that you allege are responsible --

10 MR. MORIN: One?

11 MR. RATCLIFFE: Exhibit Number 1.

12 Q. -- that are responsible, if you bend your prop  
13 trying to get in and out of Barnstable Harbor, do  
14 you know any of those individuals personally?

15 A. Not to my knowledge.

16 Q. How do you know some are of Florida at least this  
17 time of year?

18 A. I think Mr. Dugas has a place in Florida, and  
19 I think I was -- that would have come from a source  
20 of some sort, saying that they were probably in  
21 Florida or something.

22 Q. Why would you put that in your article?

23 A. No reason. No reason not to.

24 Q. So there was no reason, no reason at all that you  
25 had by putting, "Some of Florida, at least this

1 time of year"?

2 A. Like I said, I am not a journalist. I don't  
3 know. I just write what I think and see.

4 Q. But it's your testimony, as you sit here today, you  
5 had no motive or reason for putting, "Some of  
6 Florida, at least this time of year," in your  
7 article?

8 A. No.

9 Q. None whatsoever?

10 A. No.

11 Q. Just superfluous, no reason --

12 MR. MORIN: He answered the question.  
13 Come on.

14 Q. I believe you mentioned that you spoke to some  
15 people when you were researching the article from  
16 the Whale Watch, and I asked you, I believe, about  
17 George Blanchard -- is it George Blanchard?

18 A. I know George Blanchard. I didn't recall  
19 talking to him in the last year or so. I said that  
20 clearly before.

21 Q. How about other people; is there a George Jackhill,  
22 the owner?

23 A. Oh, Jackie Hill. No, I haven't talked to  
24 him.

25 Q. How about Wayne Bassett?

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### Wampanoags sue for return of Mashpee

10/22/08, 6:28 pm :: posted by Jim Kinsella [Link to Post](#) [Email to a Friend](#)

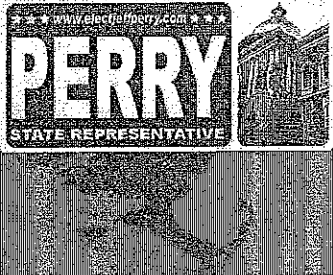
**Wampanoags sue for return of Mashpee**  
**Seek freeze on property sales in town**  
By James Kinsella

**T**wo members of the Mashpee Wampanoag have sued in federal court on behalf of themselves and the rest of the tribe for title to all land in Mashpee and compensation for what they call the taking of that land in 1869 and 1870.

Amelia Peters Bingham of Mashpee and her son, Steven Peters Bingham of Boston, are suing the Commonwealth of Massachusetts and the Town of Mashpee. The Bingham's filed the suit on behalf of themselves and what they call descendants of the South Sea Indians, an older name for the Mashpee Wampanoag.

The Bingham's filed their lawsuit Wednesday in U.S. District Court in Boston.

"The lands of the Mashpee area of Massachusetts are historically and rightfully the lands of Native American Indians," the complaint states. "Those lands were invaded and have been adversely occupied since the arrival of the Pilgrims in 1620."



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1 A. Yeah.

2 Q. So, at times you have looked at stories and said, I  
3 didn't write that?

4 A. There have been times, yes.

5 Q. Anything in this story that you recall that was  
6 changed that you didn't write?

7 A. Oh, jeez, I don't recall. You know, I don't  
8 know. I would have to go look at my original  
9 submission.

10 Q. Do you maintain your original?

11 A. If I haven't -- I don't keep them all.  
12 Sometimes I delete them. They take up a lot of  
13 space after awhile so. Because I just submit the  
14 photographs and the story. They post them the way  
15 they want. Sometimes they use the photographs,  
16 sometimes think don't. Sometimes they get their  
17 own photographs.

18 Q. Now, when you said you were going down to -- you  
19 were taking some photos, this was of the cave-in of  
20 the main bulkhead in Barnstable Harbor?

21 A. When I originally started writing about the  
22 harbor, I just started taking pictures of the  
23 entrance to the harbor.

24 Q. Can you describe the entrance to the harbor?

25 A. Can I describe it?