

**ACTIVITY:** Scuba diving or free diving

**CASE:** [GSAF 2015.06.13](#)

**DATE:** Saturday June 13, 2015

**LOCATION:** The incident took place in the Pacific Ocean off San Diego, California, USA.

**NAME:** Elke Specker

**DESCRIPTION:** She is the VP of San Diego Underwater Film Exhibition (SDUFEX), a world traveler and an award winning filmmaker. She is a media producer and underwater cinematographer, creating awareness for ocean conservation with films that make a difference. Elke was born in Germany, grew up in Sweden, lived in England, and settled in San Diego, where she has lived over 15 years. She was wearing a 7mm wetsuit.

**SUPPORT BOAT:** The *Cetus Specula*, 31' Albemarle SportFish Express, owned by Michael Kazma of Mako Shark Diving.

#### **BACKGROUND**

**ENVIRONMENT:** Mako Shark Diving specializes in out-of-cage pelagic shark free diving/snorkeling (no certification required) with blue and mako sharks. All expeditions are run by Michael Kazma. Mako Shark Diving feeds sharks and Kazma has experience hand-feeding the sharks.

**DISTANCE FROM SHORE:** Eight miles

**NARRATIVE:** Elke Specker filed a lawsuit in federal court against Michael Kazma, claiming that he was intoxicated while he was chumming that day, improperly and negligently supervising and directing the divers to what Specker claims he knew or should have known was an unsafe area. He then continued to feed a mako shark, holding the bait directly in the shark's path toward Specker, which led to her being bitten by the shark.

On her Facebook page shortly after the incident, Specker wrote: "The shark had been manhandled into a "feeding frenzy." The freakiest part was looking down at the tears in my wetsuit, not knowing how much damage was done. Luckily there were no arteries cut or I would have bled to death. Something to think about next time you're heading out to dive with sharks! It can be all over in a split second, you hardly even feel it, and don't think it couldn't happen to you...I never dreamed it would happen to me. Choose your Shark Diving Operator wisely!"

Specker sued Kazmers. His attorney noted that Specker was not bitten by the shark, but "sustained a laceration" when the shark's mouth was caught on her wetsuit as it tried to escape. "She had an interaction with a wild animal that turned bad, but she was not bitten," he said. Because the parties settled the case on October 13, 2016 so it did not go to trial.



## Shark Attack Blamed on Drunken Instructor

SAN DIEGO (CN) - A filmmaker was mauled by a Mako shark when an "intoxicated" dive instructor drew it to her with bait, she claims in court.

Elke Specker sued Michael Kazma, Mako Shark Diving and Yellow Charter Boat on Nov. 10 in Federal Court. Specker, of San Diego, says she boarded Yellow Charter's Cetus Specula boat on June 13 as a fare-paying passenger to film underwater shark activity.

Kazma, a recreational dive instructor, was "chumming" the water and hand-feeding sharks for the filming, the lawsuit states. Bait, or chum, may include fish parts, bone and blood; chumming is used to lure keen-smelling sharks. Specker claims that while he was chumming that day, "Kazma was intoxicated at all relevant times."

The lawsuit claims "that in his intoxicated state, defendant Kazma was improperly and negligently supervising and directing the divers, including plaintiff Specker, in that he directed plaintiff Specker to where he knew or should have known was an unsafe area. He then continued to feed a swimming Mako shark, holding the bait directly in the shark's path toward plaintiff Specker, which led to her being bitten by that shark."

Specker says she suffered "multiple permanent severe injuries and disfigurement" and emotional distress.

The Mako shark, or blue pointer, can grow to 10 feet and is the fastest shark.

According to the International Shark Attack File, a global database of shark attacks, there were 42 recorded Mako shark attacks on humans from 1980 to 2010, in which three people died, and 20 boat attacks.

Kazma promotes San Diego-based Mako Shark Diving, which he operates, as a "family business" that offers "safe out-of-cage encounters" with Mako and Blue sharks. He describes himself on his website, checked Wednesday morning, as an "ecologist/shark behavioral expert and professionally trained shark feeder," who has practiced shark diving for 18 years, shark feeding for five years and technical scuba instruction for 13 years. His website says that Kazma is "known globally for his ability to attract and hand feed Mako sharks."

Kazma, who corresponded at length with Courthouse News, ultimately declined public comment.

Specker did not respond to email request for comments late Tuesday. Her creative media studio, IN2 Focus Media, has garnered awards for the short films "Diver's Backyard," "Xibalba, The Maya Underworld," "Shadow Reef" and "Giants of Socorro," which have been featured at film festivals and conservation summits. "We work to protect the world's seas and marine life by producing films that make a difference," Specker's LinkedIn bio states.

Yellow Charter Boat could not be reached by email or phone on Tuesday. Specker's counsel did not reply to communications via email and phone. Specker seeks damages for negligence and maritime lien. She is represented by Richard Lesser of Redondo Beach and Richard Jorgensen with Jorgensen & Salberg of Tustin. 

**SOURCE: Jonny Bonner, Courthouse News Service**

<http://www.courthousenews.com/2015/11/18/shark-attack-blamed-on-drunken-instructor.htm>

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## Shark Bite Case Stays Above Water

San Diego – A federal judge refused to dismiss a case from a diver who left a shark cage led by a dive instructor she claims was drunk, whereupon she says she was bitten by a mako shark.

Elke Specker says she suffered severe and permanent injuries in the June 13, 2015 attack. The defendants' attorney, however, told Courthouse News that his client was not drunk, and that Specker was not even bitten by the shark. Specker [sued](#) dive instructor Michael Kazma, Mako Shark Diving, Yellow Charter Boat and the vessel *Cetus Specula* in November. The case was filed in Federal Court, which has jurisdiction on admiralty and maritime claims. Specker says she paid for a shark-diving expedition that Kazma advertised as a "safe out-of-cage experience with mako and blue sharks in San Diego."

The mako shark can grow up to 10 feet long and weigh 300 lbs. Also known as the bonito shark, it is the fastest shark in the world. It has been recorded swimming at 46 mph, and can jump as high as 30 feet.

Specker claims Kazma was drunk while feeding sharks, and "improperly and negligently" directed divers to an unsafe area. She says Kazma held the bait so it "led the shark directly" to her, and she was bitten on the calf.

Specker's attorney Jorge Lopez, with Jorgensen & Salberg, told the judge Wednesday that his client was wearing a 7-millimeter thick wetsuit when she was bitten, "so you can imagine how sharp and strong the bite was."

U.S. District Magistrate Judge Nita Stormes found that Specker's claims passed the locality test required by maritime law, as she was attacked while scuba diving in navigable waters off the coast of California. For a maritime claim to survive a motion to dismiss, it must also pass the relationship test, showing a connection between the incident and maritime activity.

Stormes found the shark bite had the potential to disrupt maritime commerce if another boat had to be diverted to offer first aid. Stormes also found the vessel *Cetus Specula* was engaged in "traditional maritime activity," so all defendants will be subject to maritime jurisdiction. "All defendants benefited from Specker paying a fee to travel in a boat in the ocean to a location where the dive leader guided her and others on a cage-free expedition with sharks. Her activity, and consequent injury, depended on the relationship of the parties; she could not have participated in the activity if any of the four named parties were absent," Stormes wrote.

Lopez said the motion to dismiss for lack of jurisdiction "was a bit of a stretch, considering the incident occurred off a boat off the coast of San Diego. If the motion was successful, it would have greatly impacted the case and forced us into state court. Luckily, the judge got it right and saw it the way we did," Lopez wrote in an email.

Adam Jaffe, who represents Kazma and the Mako diving company, told Courthouse News that his client was not drunk, and that Specker was not even bitten by the shark. Jaffe said he has a video from an unrelated third party, which shows that a mako shark did not bite Specker, but that she "sustained a laceration" when her leg was sliced after the shark's mouth got caught on her wetsuit as it tried to escape." She had an interaction with a wild animal that turned bad, but she was not bitten," Jaffe said.

**SOURCE:** Courthouse News Service, July 22, 2016  
<http://www.courthousenews.com/2016/07/22/shark-bite-case-stays-above-water.htm>

### Strange Shark Bite Case Sails to Settlement

SAN DIEGO (CN) — A bizarre case involving a diver-filmmaker, mako shark and an allegedly drunk San Diego diving instructor whose customer was bit while under his supervision was settled Thursday.

Elke Specker sued Michael Kazma, Mako Shark Diving, Yellow Charter Boat and the vessel Cetus Specula this past November in Federal Court. She claimed she went on a diving trip organized and operated by the defendants that was advertised as a "safe out-of-cage experience with mako and blue sharks in San Diego."

Specker paid for the excursion to film the sharks for a project for her creative media studio IN2 Focus Media, which has garnered awards for the short films "Diver's Backyard," "Shadow Reef" and others that have been featured at film festivals and conservation summits.

On June 13, 2015, Specker went on the dive excursion with instructor Kazma. She claims Kazma was drunk while he was feeding the sharks and "chumming" the water — where chum, including fish parts and bones are used to lure sharks to the area - so the divers could observe the creatures.

Specker said Kazma held the bait so it "led the shark directly" to her, and she was bitten on the calf. Her attorney, Jorge Lopez with Jorgensen & Salberg, previously told Courthouse News Specker was wearing a 7-millimeter thick wetsuit when she was bitten, "so you can imagine how sharp and strong the bite was."

The request to dismiss the case was agreed to by all parties and stipulates that each party will bear its own costs and attorney's fees. Lopez told Courthouse News in an email the parties reached a settlement, the terms of which are confidential.

Specker's case [survived](#) a motion to dismiss this July when U.S. District Magistrate Judge Nita Stormes found the woman's claims passed the locality test required by maritime law, as she was attacked while scuba diving in navigable waters off the coast of California.

Stormes found the shark bite had the potential to disrupt maritime commerce if another boat had to be diverted to offer first aid. She also found the vessel Cetus Specula was engaged in "traditional maritime activity," so all defendants would be subject to maritime jurisdiction.

Kazma's attorney Adam Jaffe previously told Courthouse News his client was not drunk and that Specker was not bitten by the shark, but "sustained a laceration" when her leg was sliced after the shark's mouth got caught on her wetsuit when it tried to escape.

"She had an interaction with a wild animal that turned bad, but she was not bitten," Jaffe said.

The trial originally set for next August will be vacated.

Stormes signed the dismissal order Friday. 

**SOURCE:** Bianca Bruno, Courthouse News Service, Friday, October 14, 2016  
[www.Courthousenews.com/2016/10/14/strange-shark-bite-case-sails-to-settlement.htm](http://www.Courthousenews.com/2016/10/14/strange-shark-bite-case-sails-to-settlement.htm)