

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I.**

**INTRODUCTION**

Prince Namor McKenzie, the Avenging Son, (hereinafter “THE SUB-MARINER”) is the Plaintiff in the herein action. Defendant Comics Ink (hereinafter “ADAM”) has heretofore created and allowed a continuous hostile and slanderous environment for THE SUB-MARINER, and by extension, for his devoted counsel of record, JAMES R. THOMPSON, by spreading various, inconstant falsehoods about the Plaintiff’s ability and mechanism for flight.

At one point the Defendant went so far as to allege that THE SUB-MARINER does not even need his ankle wings to fly; that he merely has an unreasonable and neurotic belief that said wings are necessary. Expert witness testimony was even provided in support of this position, which was later acknowledged as unintentionally, i.e. negligently, fraudulent. Subsequently ADAM has modified his assertions, now claiming that perhaps the wings are necessary for flight, but only in that they are somehow connected to unexplained telekinetic abilities or other some unknown causal relationship. The more logical conclusion that the wings allow for flight in the more traditional sense, i.e. by flapping, has been rejected, even ridiculed, on the flimsy ground that the wings would not be strong enough to lift THE SUB-MARINER.

**II.**

**THE SUB-MARINER HAS CONSISTENTLY ASSERTED THAT HIS POWER OF FLIGHT IS DERIVED FROM HIS ANKLE WINGS.**

The definitive story involving the origin of THE SUB-MARINER’s wings was entitled “Wings on His Feet” from *Sub-Mariner Comics* no. 35 (1954). It is established therein, in the form of a memoir, that the young Namor was not born with winged feet; instead the wings appeared during a crisis when he was approximately fourteen years old. It was further established in the same story that he did not have the ability to fly prior thereto. Fen says to her son, “It’s a miracle! Look, Namor – look at your Feet! There are tiny wings on your ankles!!” The next panel’s caption, in THE SUB-MARINER’s own words, says: “And so there

1 were! **Wings that were, for years to come, to bless me with the power to fly**, enabling  
2 me to visit all parts of the world ..." (Emphasis Added) Said story's validity is enhanced by  
3 the fact that it is creator Bill Everett's, and by its consistency with the long-established  
4 notion of mutant manifestations coincident with the onset of puberty. Thus, while other  
5 abilities may be a result of the hybrid nature of THE SUB-MARINER, it has been established  
6 for over fifty years that the wings, and the ability to fly, are a mutation<sup>1</sup>. The full story is  
7 attached hereto as Plaintiff's Exhibit "A."

8 Stepping forward to the Silver Age, specifically "In Search for the Sub-Mariner" from  
9 *Fantastic Four* no. 27 (1964), THE SUB-MARINER is quoted while in battle with Reed  
10 Richards, "Don't forget, **my winged feet give me the power of limited flight** also. See how  
11 easily I glide through any human knot ..." (Emphasis Added). The fact that this story is by  
12 Lee and Kirby gives the quote further evidentiary weight. The relevant panel is attached  
13 hereto as Exhibit "B."

14 Given ADAM's expressed preference for single panel evidence; Exhibit "C" is taken  
15 from *The Invaders* #4 (1975), wherein THE SUB-MARINER actually points to his ankle  
16 wings and says to Bucky, "For am I not a hybrid, born of human male and amphibious  
17 female - with the strength of many, and the **wing-born** power of flight." (Emphasis Added)  
18 This line was written by the extremely credible Golden Age authority Roy Thomas.

19 Thus we see THE SUB-MARINER attributing his flying powers to his wings in his  
20 private journal, in battle with an opponent, and in conversation with an ally. It is hereby  
21 requested that this Court take judicial notice of THE SUB-MARINER's testimony, as set forth  
22 above, that he can fly because he has wings.

23 \\\

24 \\\

---

26 <sup>1</sup> An alternative theory is that the wings are supernatural in nature - a gift from the Gods - due to  
27 Neptune's/Poseidon's benefactor status with the Atlanteans and Namor, specifically. In fact, the current wing  
28 set was clearly a gift from "Father Neptune" [*Namor*, issue no. 37] (and Bob Harras] after THE SUB-  
MARINER's wings were destroyed early in Byrne's run on the title. However, either theory equally supports  
the notion that the wings allow for flight.

1 III.

2 **THE SUB-MARINER HAS NEVER FLOWN WITHOUT HIS WINGS**

3 Given that at the very least, Plaintiff believes that he gets his flight powers from his  
4 wings, the next issue is whether or not that is, in fact, a credible belief. It has already been  
5 established that THE SUB-MARINER partly based this assumption on the fact that he  
6 couldn't fly until the wings appeared. However, that is not his only personal evidence of the  
7 connection, as he has lost the wings completely on two occasions as an adult – both times  
8 resulting in a corresponding loss of flight, as will be documented below.

9 THE SUB-MARINER first lost his wings, and the ability to fly, in an adventure during  
10 the early 1950s. In a subsequent story, "Vengeance," also from *Sub-Mariner Comics* #35  
11 (1954), the now wingless – and flightless -- Plaintiff falls down an elevator shaft. His wings,  
12 and with them, his powers of flight, were restored in issue no. 38 (1955) Copies of the  
13 relevant series of covers are attached hereto as Exhibit "D." During this entire mid-fifties  
14 revival, THE SUB-MARINER is represented as flying when he has wings, and land-and-sea  
15 bound when he does not. The same is true for his companion at the time, Namora.

16 THE SUB-MARINER loses his wings again for most of John Byrne's run on *Namor, the*  
17 *Sub-Mariner*, from issue no. 8 (1990) until Bob Harras takes over, and restores the wings  
18 with the assistance of Father Neptune, in issue no. 37 (1993)[discussed in detail forthwith].  
19 In issue no. 8, after an altercation with a bog monster named Sluj in the previous issue, THE  
20 SUB-MARINER wakes up on a roof. As he leaps off, prepared to fly, he instead starts falling.  
21 Only then does he realize that he has lost his wings. While still falling, he says; **"My wings!**  
22 **The mutant attribute which gave me flight!** They're gone! They must have been  
23 dissolved by the same anti-mutant virus which caused the destruction of the monster."  
24 (Emphasis Added) A copy of the relevant panels is attached hereto as Exhibit "E." I have  
25 reviewed the subsequent 29 issues and not once does THE SUB-MARINER fly until his  
26 wings are restored. This panel is also significant in that THE SUB-MARINER has no idea

1 that he's missing his wings until after he starts to fall. This rebuts the notion that he only  
2 thinks he needs the wings to fly, that the relationship is a psychosomatic one.

3 The fact is that THE SUB-MARINER has significant experience involving the loss of  
4 his wings and the simultaneous loss of his flight powers which supports his belief that the  
5 two are inextricably linked.

6 IV.

7 **OTHER AUTHORITIES CONFIRM THE CAUSAL**  
8 **CONNECTION BETWEEN WINGS AND FLIGHT.**

9 This court does not have to rely on the Plaintiff's own experiences and beliefs, as  
10 there are many supporting authorities as well. The next significant supporting evidence  
11 appears in John Byrne's *Namor, the Sub-Mariner* no. 20 (1991) in a storyline establishing  
12 that Namorita is actually a clone of Namora, a journal entry flashback by Namora states,  
13 **"Knowing the nature of Namor's mutation, the tiny wing-like fins which somehow**  
14 **give him the power of flight** (emphasis added) ... I allowed Vyrra [the cloner] to make a  
15 closer examination of my person." The panels in question then have Vyrra, after examining  
16 Namora's ankles, say to her, "Yes, there are tiny buds here. Below the surface. They can  
17 only be the vestige of undeveloped wings! ... You have already asked for a small  
18 manipulation, so that she will not be your exact twin. When I make the adjustments in fat  
19 and bone ratios, I can easily activate the dormant wings." Thus the clone/daughter  
20 Namorita comes to possess both the wings, and the ability to fly, which Namora, at that  
21 point in continuity, lacked. This is persuasive in that it establishes that an Atlantean  
22 scientist, so advanced as to be able both to clone Namora, and to "manipulate" the process  
23 by activating dormant mutant genes, is of the expert opinion that the wings are directly  
24 responsible for the mutant power of flight. <sup>1</sup> Copies of the relevant panels are attached  
25 hereto as Exhibit "F."

26  
27 <sup>1</sup> In the current continuity, Namora does have, and has had in the past, the ability to fly – in that  
28 continuity she is consistently shown with ankle wings -- wherein during the fifties, and in Byrne's *Namor* run,  
she had neither the wings nor the power of flight.

1 An even more persuasive authority is presented in the same series run, specifically  
2 *Namor the Sub-Mariner* no. 37 (1993), wherein THE SUB-MARINER recovers his wings (and  
3 his ability to fly). Having been killed, he is revived by the Olympian God designated therein  
4 as Father Neptune, who states, "... I return to thee the natural gifts that were cruelly taken  
5 from thee ... **thy wings which give thee the gift of flight in the world above.**" (Emphasis  
6 Added). Copies of the relevant panels are attached hereto as Exhibit "G." Thus science and  
7 the supernatural both agree as to the source of THE SUB-MARINER's power of flight.

8 Further, in *Sub-Mariner (The Initiative)* no. 5 (2007), Atlantean terrorist Arath  
9 absorbs THE SUB-MARINER's powers, including his ability to fly. Arath's ankles manifest  
10 their own set of wings, and as he rises into the air, he says, "Now let's road-test these  
11 powers of yours. **See what it's like to fly with those silly little wings.**" (Emphasis Added).  
12 They then begin to flap furiously. Thus we have as witness someone who has absorbed the  
13 powers directly, thereby personally confirming the relationship between wings and flight.  
14 Copies of the relevant panels are attached hereto as Exhibit "H."

15 Finally, and most compellingly, I quote the most recent Marvel handbook entry on  
16 the Plaintiff, the *Marvel Mystery Handbook* (2009), [Exhibit "I"] which set forth his powers  
17 as including: "... superhuman reflexes, agility and speed enabling him to swim as fast as 60  
18 miles per hour. **He can fly at similar speeds via the feather-like fins that form small  
19 wings on his ankles.**" (Emphasis Added) Please note the use of the word "via." Miriam  
20 Webster defines the word as follows:

21 "**via** Pronunciation: \ˈvī-ə, ˈvē-ə\

22 Function: *preposition* Etymology: Latin, abl. of *via* way — more at [way](#) Date: 1779

23 **1** : by way of **2** : through the medium or agency of; *also* : by means of"

24 This handbook entry would seem to be conclusive evidence, in that it is not a subjective  
25 assumption of causation, i.e. THE SUB-MARINER's "misguided" belief, nor is it based upon  
26 the word of science or of the Gods. It is instead both the clearest, and the most recent, authority  
27 on the issue from none other than the Marvel management, and therefore controlling precedent

1 until otherwise over-ruled. It cannot be denied -- THE SUB-MARINER flies by means of his  
2 ankle wings!

3 V.

4 **THE SUB-MARINER FLIES BY FLAPPING/VIBRATING HIS ANKLE WINGS**

5  
6 It has been clearly established that THE SUB-MARINER needs his wings to fly. It is not  
7 “in his head,” as was previously asserted. Various outside authorities, including both Father  
8 Neptune and Marvel management have also confirmed that he flies “via” the wings. However,  
9 ADAM would have the Court think that even if this is true, there must be an alternative  
10 explanation for the causal connection. Telekinesis has been suggested.<sup>1</sup> Or perhaps his wings act  
11 somehow like Hawkman’s belt formed from nth metal – providing the necessary “lift.” ADAM  
12 argues that the wings, utilized in a traditional sense, are simply too small to keep THE SUB-  
13 MARINER airborne.

14 The court has previously been presented with evidence of what happens when THE SUB-  
15 MARINER loses his wings completely, i.e. he loses the ability to fly. In the recent *Sub-Mariner*  
16 (*The Initiative*) no. 4 (2007), his inner ankles wings have been severely damaged by Venom. His  
17 outer wings remain intact. Reviewing the opening pages of the issue, it is clear that the Plaintiff  
18 is in control of his other powers, i.e. He fights Venom and tears his tongue out. If he is in pain, it  
19 is under control. But when he attempts to fly, and the remaining wings are clearly shown  
20 flapping, he howls in pain, struggles to gain altitude and eventually falls back to the ground –  
21 LIKE A WOUNDED BIRD! Copies of the relevant panels are attached as Exhibit “J.” The  
22 subsequent issue shows his limited flight abilities due to his damaged wings. This would seem  
23 to support the concept of traditional wing use, rather than any alternative theories.

24  
25 \_\_\_\_\_  
26 <sup>1</sup> As we know from Marvel Girl/Phoenix, Psychokinesis (the more appropriate term) basically means mind  
27 over matter. As far as we know, Namor’s brain remains in his head, rather than in his wings. There is nothing  
28 to indicate that ankle wings would allow for psychokinetic powers. Further, if Namor was flying via  
psychokinesis, or levitation, why would Reed Richards have added glider wings to the suit he designed for  
Namor in *The Savage Sub-Mariner* no. 67 (1973)? I don’t recall Phoenix borrowing one of Banshee’s old  
outfits to improve her maneuverability. Richards is the smartest man on the planet – he would know the  
difference between traditional flight and levitation/psychokinesis.

1           There is also evidence that when THE SUB-MARINER’s wings are healthy and intact,  
2 they are quite powerful. In *Tales to Astonish* no. 100 (1968), the Hulk flings the Plaintiff  
3 “through the air at near-missile speed.” THE SUB-MARINER says aloud, “I’ve got to slow  
4 myself down ...! Make my ankle wings ... act as breaks ...! Mustn’t overshoot the sea!! Going  
5 too fast to land ... on hard ground!” The next panel shows a close up of the wings flapping  
6 furiously to slow him down, with him saying “Have to create increased wind resistance ... only  
7 seconds left...!” The relevant panel is attached as Exhibit “K.” This would clearly support the  
8 notion that the wings do have sufficient power to fly.

9           In fact, the argument that the wings are too small to support his weight has always  
10 seemed specious. The 2009 Marvel Mystery Handbook states that THE SUB-MARINER weighs  
11 278 pounds. Plaintiff’s side will concede that this would be an amazing feat of strength for those  
12 small wings to support such weight. The same Handbook, however, also says that “Namor can  
13 lift 100 tons while in contact with water. Even when active on the surface, he generally remains  
14 sufficiently strong to lift 85 tons ...” THE SUB-MARINER is 6’2” and under 300 pounds, yet he  
15 can lift 85 tons<sup>1</sup> – yet what ADAM finds incredulous is that the wings could support 300 pounds.

16           As the court already knows, Occam’s Razor is the philosophical principle that "entities  
17 must not be multiplied beyond necessity" and the conclusion thereof, that the simplest  
18 explanation or strategy tends to be the best one. In the instant case, THE SUB-MARINER has  
19 wings on his feet and he can fly. In general, wings often allow for flight. This is usually  
20 accomplished by the wings flapping or otherwise vibrating. Therefore the simplest answer herein  
21 is that THE SUB-MARINER flaps/vibrates his wings and this allows him to fly.<sup>2</sup>

22  
23 \_\_\_\_\_  
24 <sup>1</sup> Ants are considered remarkable, and the world’s strongest animals, for being able to lift 10 to 50 times their  
weight.

25 <sup>2</sup> THE SUB-MARINER could be compared to the bumblebee, which is also accused of lacking the proper wing size  
26 to sustain its mass. This thinking ignores the effect of dynamic stall which causes an airflow separation inducing a  
large vortex above the wing. This vortex briefly produces several times the lift of the aerofoil in regular flight. The  
27 bumblebee flies because its wings encounter dynamic stall on every down stroke. Bees beat their wings  
approximately 200 times a second, which is up to 20 times as fast as nerve impulses can fire. They achieve this  
28 because their thorax muscles don't expand and contract on each nerve firing, but rather vibrate like the string on a  
musical instrument. It cannot be said for certain that this vibration approach is exactly what allows for his flying, but  
it is far simpler, and therefore more likely, than psychokinesis.

